

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

BRIEF FOR APPELLANT AND JOINT APPENDIX

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,800

GREATER SOUTHEAST COMMUNITY
HOSPITAL FOUNDATION, INC.

Appellant,

v.

DISTRICT UNEMPLOYMENT
COMPENSATION BOARD,

Appellee.

*APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA*

United States Court of Appeals
for the District of Columbia Circuit

FILED JUN 24 1968

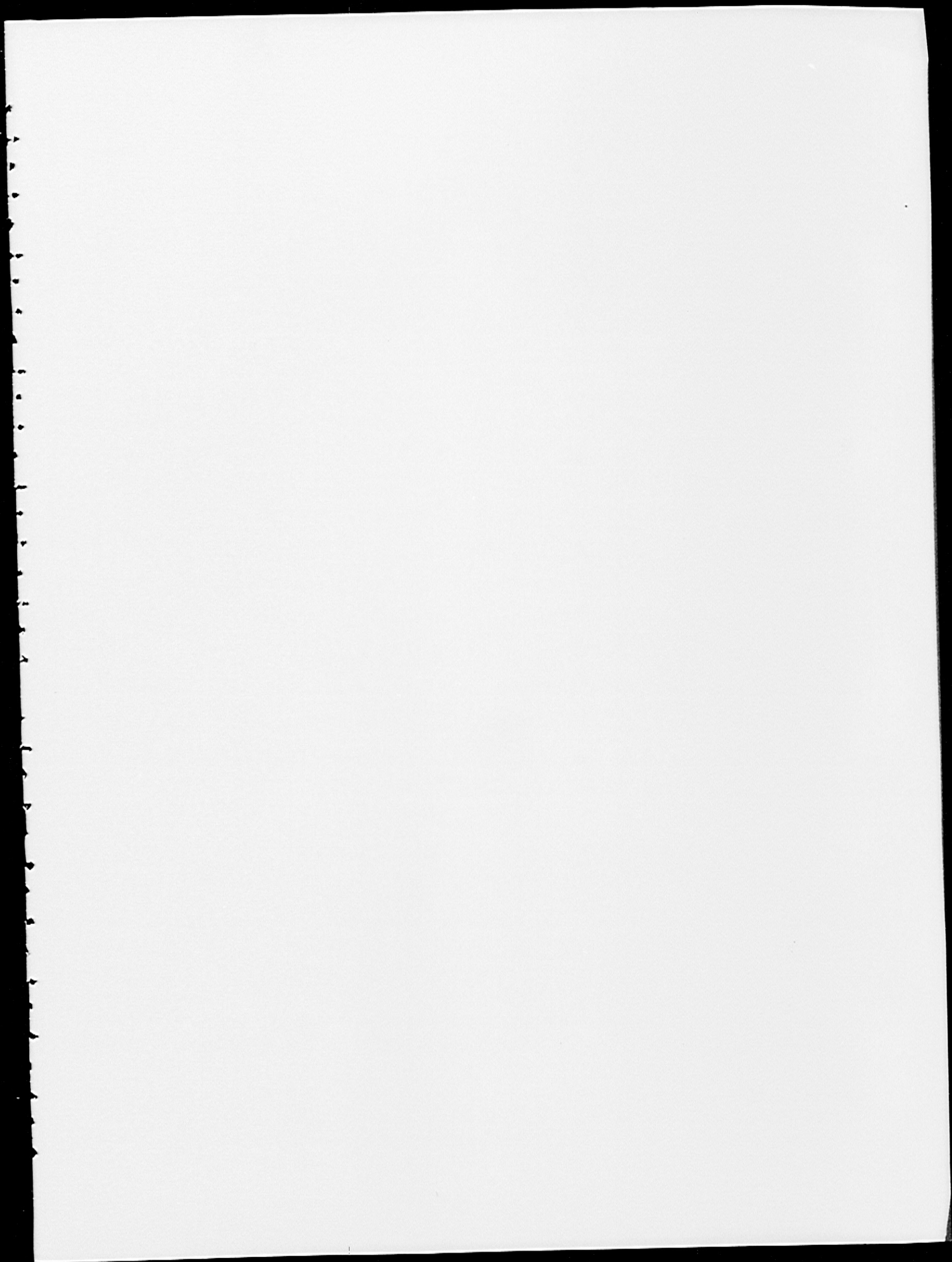
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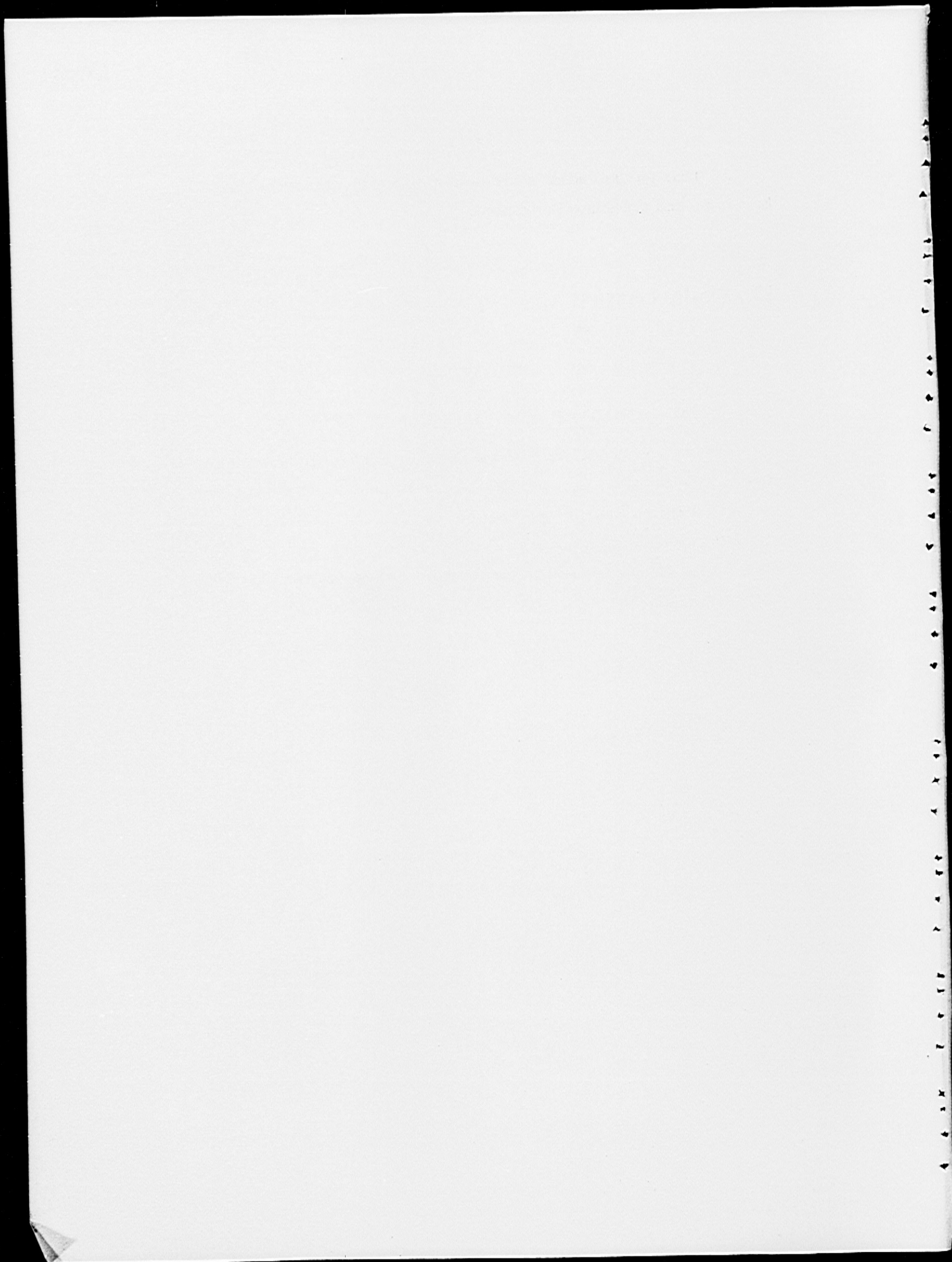


(i)

STATEMENT OF QUESTIONS PRESENTED

1. Is not the appellant, a non-profit community hospital, entitled to be declared exempt from the provisions of the District of Columbia Unemployment Compensation Act as a corporation organized and operated exclusively for charitable purposes?

2. Did not the Court below err in denying appellant's motion for Summary Judgment and granting appellee's cross-motion for Summary Judgment?



(iii)

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v.

DISTRICT UNEMPLOYMENT
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Appellee.

*APPEAL FROM THE UNITED STATES
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BRIEF FOR APPELLANT
JURISDICTIONAL STATEMENT

Greater Southeast Community Hospital Foundation, Inc., appellant herein, a District of Columbia corporation, owner and operator of the Morris Cafritz Memorial Hospital in the District of Columbia, filed a Complaint in the United States District Court for the District

of Columbia for Declaratory Judgment (JA 1) praying the Court to declare it to be a charitable corporation within the meaning of Section 46-301(b)(5)(G), D.C. Code 1967 Ed., and therefore exempt from the provisions of the District of Columbia Unemployment Compensation Act. Said Complaint also included a prayer that the Court review and reverse certain administrative decisions of the District Unemployment Compensation Board, appellee herein, on the basis that appellant is a charitable organization. The Court below denied appellant's motion for Summary Judgment as to both prayers and entered Summary Judgment for appellee.

This Court has jurisdiction of the instant appeal pursuant to 28 U.S.C. 2201, 1291, and Section 46-312, D.C. Code, 1967 Ed.

STATEMENT OF THE CASE

Appellant was incorporated on or about April 18, 1955, under the provisions of Chapter 6, Title 29, D.C. Code, 1967 ed., as a not-for-profit corporation serving the general community, for the purposes of constructing, maintaining, equipping, owning, managing and operating a community hospital in the District of Columbia and to carry out such related activities as are necessarily associated with the foregoing purposes. (JA 4-9)

Subsequently to its incorporation, appellant acquired a site for the hospital and funds, commitments and pledges for future funds for the construction, equipping and operation of a community hospital. The site was acquired at no cost from the Federal government and appellant secured contributions from the community in the amount of \$1,021,890.00 (as of November 1, 1967) and grants in the amounts of \$1,294,946.00 and \$3,375,000.00 under the provision of the Hill-Burton Act (42 U.S.C. 291), and the District of Columbia Hospital Center Act (60 Stat. 896, as amended), respectively. Additionally, appellant received a grant in the amount of \$649,527.52

from Prince George's County, Maryland. (JA 39) Said monies were insufficient for the construction, equipping and operation of the community hospital and permanent financing was obtained through the issuance and sale of first mortgage serial bonds in the face amount of \$4,500,000.00. The financial status of appellant (as of December 31, 1966) is reflected in the unaudited financial statement for calendar year 1966. (JA 29-42)

Appellant has received an Internal Revenue determination that it is exempt from Federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code (JA 43) and it has received from the District of Columbia exemptions from real estate taxes and income and franchise taxes. (JA 44-46)

Appellant was required by appellee to register as an employer as the services of appellant's employees were deemed by appellee to be "employment" under the provisions of the District Unemployment Compensation Act, and such registration was made as of November 1, 1966. Appellee's determination that the aforesaid services were employment was based on the finding

"that the Foundation is operated for charitable purposes, but, in addition to that, it is also operated for scientific, educational, health and medical purposes as well."

and that, accordingly, it was not operated exclusively for charitable purposes and, consequently, not exempt. (JA 47-50)

On April 24, 1967, an Appeals Examiner rendered two (2) adverse decisions against appellant on claims filed by former employees, from which decisions timely administrative appeals were taken on the sole basis that appellant was exempt under the Act. Appellee affirmed the decisions of the Appeals Examiner on May 9, 1967. (JA 51-54)

Appellant thereupon filed the Complaint for Declaratory Judgment and for review of the administrative decisions as aforesaid (JA 1), and the Court below denied appellant's motion for Summary Judgment and granted appellee's cross-motion therefor (JA 72, 73) and appellant has appealed from said judgment. (JA 73)

STATUTE INVOLVED

DISTRICT OF COLUMBIA CODE, 1967 EDITION.

§ 46-301(b)(5)(G)

"(5) The term 'employment' shall not include— * * *

(G) service performed in the employment of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious or charitable purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual."

STATEMENT OF POINTS

The Court below erred in concluding that appellant was not "organized and operated exclusively for * * * charitable purposes" and, therefore, not exempt from the provisions of the District of Columbia Unemployment Compensation Act.

SUMMARY OF ARGUMENT

I.

Appellant Was Organized and Is Operated Exclusively for Charitable Purposes and Is Entitled To Be Declared Exempt From the Provisions of the District of Columbia Unemployment Compensation Act Pursuant to Section 46-301(b)(5)(G) Thereof.

A. Appellant was organized for the limited purposes of establishing, operating and maintaining a non-profit community hospital in the District of Columbia and its activities have been confined to the accomplishment and furtherance of said purposes. The law is well settled that the aforesaid limited purposes and activities compel the ultimate finding that appellant was organized and is operated exclusively for charitable purposes. Accordingly, since no part of appellant's net earnings "inures to the benefit of any private shareholder or individual", appellant meets the criteria for exemption specified in Section 46-301(b)(5)(G) of the Act.

B. Although appellant urges that it is entitled to be declared exempt under the clear and unambiguous language of the statute, it is suggested that the legislative history of the statutory exemption and the rules of statutory construction strongly support its position.

C. Appellant's entitlement to the statutory exemption is demonstrated by appellee's previous rulings exempting certain other hospitals in the District of Columbia. Said rulings follow the prevailing case law that ancillary activities necessary for the furtherance of the exclusive purpose of an institution are not disqualifying under a statutory exemption that requires exclusivity of purpose and operation. Appellee has taken the anomalous position that appellant is not entitled to the statutory exemption because, in addition to being operated for charitable purposes, it also engages in scientific, educational, health and medical activities. Such was the sole basis for

appellee's ruling. These additional activities, however, did not taint the exclusive purpose of other hospitals.

II.

The Administrative Decisions of Appellee Should Be Reversed as Appellant Is Entitled to the Statutory Exemption.

The administrative decisions in the claims of Johnsie B. Withrow and Emma Lee Coleman (JA 51-54) were erroneous as a matter of law because appellant is entitled to the statutory exemption. Appellant, accordingly, urges that said decisions be reversed.

ARGUMENT

I.

Appellant Was Organized and Is Operated Exclusively for Charitable Purposes and Is Entitled To Be Declared Exempt From the Provisions of the District of Columbia Unemployment Compensation Act Pursuant to Section 46-301 (b)(5)(G) Thereof.

A. This appeal presents to the Court a single question, to-wit, whether or not appellant is entitled to be declared exempt from the provisions of the District Unemployment Compensation Act, Title 46, Chapter 3, D. C. Code, 1967 ed., pursuant to Section 46-301 (b)(5)(G)

“(5) The term ‘employment’ shall not include— * * *

(G) service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious or charitable purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.”

It is appellant's strong contention that, as a matter of law, it is "organized and operated exclusively for * * * charitable purposes". Accordingly, since no part of appellant's net earnings "inures to the benefit of any private shareholder or individual", appellant meets the criteria for exemption specified in Section 46-301(b)(5)(G). It is noted that appellee's administrative determination that appellant was not an exempt organization was based solely on the finding that it was not organized and operated exclusively for charitable purposes. (JA 48, 49) Appellee has never questioned the fact that appellant is not operated for the benefit of any shareholder or individual. The Court below entered Summary Judgment for appellee, but did not make any Findings of Fact or Conclusions of Law. It can only assumed therefrom that the Court below concluded that appellee did not meet the statutory criteria for exemption, but the bases for such conclusions are unknown.

Section 46-301(b)(5)(G) was enacted in its present form by the Act of March 30, 1962 (76 Stat. 46) which narrowed the scope of the exclusions previously contained in said section. The legislative history of the amendment and its relevance to this appeal will be discussed *infra*.

The present language of the statutory exemption is clear and unambiguous on its face and appellant strongly urges that it is entitled to be declared exempt thereunder.

Appellant's position in this matter is strongly buttressed by Judge Holtzoff's opinion in *National Capital Girl Scouts Council v. District Unemployment Compensation Board*, (D.C. D.C. 1964), 231 F.Supp. 546, 547, which construed the 1962 amendment in general and "charitable purposes" and "exclusively" in particular. The sole issue in the *Girl Scouts* case was whether the plaintiff was "exempt from the provisions of the Unemployment Compensation law for the the District of Columbia". The precise issue, in fact, that appellant

is presenting to this Court. In the *Girl Scouts* case, the Court noted that:

"Congress, however, for very good reasons has exempted certain organizations from the provisions of this law, presumably because such organizations are supported in whole or in large part by grants from the United Givers Fund or contributions from the public. It was obviously the view of Congress that such funds should not be burdened with the expense of unemployment compensation for employees, and the employees do suffer that detriment."

The Court, in the *Girl Scouts* case, construed "charitable purposes" and "exclusively" to determine whether the organization "is operated exclusively for charitable purposes". In holding that plaintiff had a charitable purpose, the Court stated that it must invoke the broad definition of charity: "a large group of activities for the betterment of individuals or of the entire community" (Citing *District of Columbia v. Friendship House Association, Inc.*, 91 App.D.C. 137, 198 F.2d 530). The Court then decided that:

"the word 'exclusively' must not be taken literally. The Court construes it to mean 'primarily' or 'principally' or 'in large part'. We were admonished of old that, 'The letter killeth but the spirit giveth life'. This is the principle that we must invoke in construing words that are not words of art."

Based on the above, the Court found that plaintiff in that case was an exempt organization and so ruled. It is noted that the Court thought it significant that the plaintiff had been granted an exemption as a charitable organization by the Internal Revenue Service. Appellant has been granted such an exemption, as well as exemptions from District of Columbia Real Estate and Income and Franchise Taxes.

The Court's construction of "charitable purposes" and "exclusively" follows the general rules that have been enunciated by Courts generally in cases determining whether or not various organizations were exclusively charitable and whether the property of such organizations was used exclusively for charitable purposes. In *Multnomah School of the Bible v. Multnomah County*, 343 P.2d 893, 898, 218 Or. 19, the Court stated:

"The phrase 'exclusively used' has reference to the primary and incidental use. [Citations Omitted.]

"It is the primary as distinguished from an incidental use that determines whether it is exempt from taxation. [Citations Omitted.] 'When the primary purpose is an exempt one, any incidental use of the exempt property for another purpose does not negative the exemption when the incidental use is not for profit.'"

A similar expression of the general rule is found in *Young Men's Christian Association v. Los Angeles County*, 221 P.2d 47, 51, 35 Cal.2d 760, as follows:

"To this end it would appear that the exemption of property 'used exclusively for * * * charitable purposes' * * * should be held to include property used exclusively for any facility which is incidental to and reasonably necessary for the accomplishment of such purposes."

The law is equally clear that a non-profit hospital is a charitable institution; see *In re Pelton's Will*, 74 N.Y.S.2d 743, 744, wherein it was stated:

"The Herkimer Memorial Hospital is a membership corporation. Like all hospitals not operated for private gain, it is a charitable institution. As was said in the Matter of Cohen's Estate, Sur., 53 N.Y.S.2d 924, 926:

“The word “hospital”, at least in its popular usage, ordinarily denotes a charitable institution. * * * It is only where income may be used for the profit of the owners that a hospital corporation ceases to be a charity. * * *”

It is clear that the applicable law in the District of Columbia, as stated in the *Girl Scouts* case, compels the granting of the exemption sought by appellant. Furthermore, that opinion is consistent with the line of cases that have dealt with the specific question of whether hospitals are to be deemed charitable organizations for the purpose of ascertaining exempt status under taxation and unemployment compensation acts. See *Scripps Hospital v. California Employment Commission*, (S.Ct.Cal.) 24 Cal.2d 669, 151 P.2d 109, 155 A.L.R. 360, and the annotations at 155 A.L.R. 369, and 69 A.L.R. 2d 871, 941.

The fact that a hospital charges patients does not defeat a claim for exemption as a charitable organization. This issue has been well settled. A concise statement of the prevailing rule is found in 155 A.L.R. 369, 370, as follows:

“The Court stated that the fact that fees were charged by a hospital was not controlling as to its being a charity, for only when such income was devoted to the profit of the founders and not used to carry on the work by adding to the endowment, etc., did it show that the institution was a business and not a charity, and further said that a hospital association not conducted for profit which devotes all its funds including those received from patients exclusively to the maintenance and improvements of the institution is a charity in every sense of the word.” Citing *In re Mendelsohn*, (1941) 262 App.Div. 605, 31 N.Y.S. (2d) 435.

Appellant renders medical services to those not able to pay to the full extent of its financial ability, even though its "charity record" may be relatively low. It must be borne in mind that the hospital has only been in operation since April, 1966, and it is unable to raise its "charity record" at this time.

Appellant was organized and is operated "for the betterment of the entire community". Its sole activities are the maintenance and operation of a community hospital that is vitally needed. All income is used to maintain, operate and improve the hospital (including debt service) and no part of such income "inures to the benefit of any private shareholder or individual".

A reading of Revenue Ruling 56-185, 1956-1 C.B.202, makes it abundantly clear why the appellant has been granted an exemption by Internal Revenue Service. Said ruling is also applicable hereto in that it sets out criteria which must be met by a community hospital in order to qualify as a public charitable organization. Revenue Ruling 56-185 reads in pertinent part as follows:

"A community hospital of the type supported partly by contributions from the general public and/or public grants from a city, county or state, normally meets the requirements of Section 501(c)(3) as a public charitable organization. It is formed for the purpose of furnishing hospital facilities to all persons in the community at the lowest possible cost and necessarily accepts patients who are unable to pay for hospital facilities in order to retain support for the community. A nominal charity record for a given period of time, in the absence of charitable demands of the community, will not affect its right to continued exemption."

It is also stated therein that:

"It must be operated to the extent of its financial ability for those not able to pay for the services rendered * * * the fact that its charity rate is low is not conclusive that a hospital is not operated for charitable purposes to the full extent of its financial ability."

The case law concerning whether or not a hospital is a charitable institution even though it charges for most, if not all, of the services rendered, appears to be unanimous in holding that the payment by patients for such services has no bearing on the question. In *Southern Methodist Hospital and Sanatorium of Tucson v. Wilson*, 77 P.2d 458, 462, 51 Ariz. 424, it was stated:

"We think the position that the test of a charitable institution is the extent of the free services rendered, is difficult of application and unsound in theory. Is there a definite test which can be given? If the purpose of the institution is one which is recognized in law as charitable, and if it is not maintained for the private gain, profit or advantage of its organizers, officers or owners, directly or indirectly, we think the institution is properly characterized as a charitable one, notwithstanding the fact that it charges for most, if not all, of the services which it may render, so long as its receipts are devoted to the necessary maintenance of the institution and the carrying out of the purpose for which it was organized."

In *Weiss v. Swedish Hospital*, 133 P.2d 978, 980, 16 Wash.2d 446, the Court expressed the rule as follows:

"Without doing any free work of any kind, the Swedish Hospital would still be a charitable corporation so long as its surplus income is applied to the support, maintenance, and enlargement of the Hospital

and its facilities. * * * It is a charitable corporation because all of its earnings are devoted to providing care for the sick and afflicted or in the construction of additions and improvements to enlarge its usefulness. Its surplus income has invariably been applied to the improvements and building up of its facilities. * * * Whether or not they charge for their services is not the test. It is the character of their work, plus the fact that all earnings are employed in extending and improving their facilities, which gives them, in law, their charitable classification."

See also *Securities and Exchange Commission v. Children's Hospital*, 214 F.Supp. 883, 889, 890 (D.C. Ariz.), *Miller v. Mohr*, 89 P.2d 807, 814, 198 Wash. 619, and *Bishop and Chapter of Cathedral of St. John the Evangelist v. Treasurer of City and County of Denver*, 86 P. 1021, 1025, 37 Colo. 378. It is noted that the same rule applies to charitable trusts; see Restatement of Trusts, 2d, Section 376, Comments (c) and (d).

B. Prior to the 1962 amendment the statutory exclusion included scientific, literary or educational purposes as well as those set forth in present 46-301(b)(5)(G). The legislative history of the 1962 amendment is pertinent hereto because it demonstrates that appellee and the Court below have attempted to effectuate the amendment proposed by the Committee on the District of Columbia, United States Senate, rather than the amendment that was enacted into law. Said amendment represented a compromise of conflicting views between the House of Representatives and the Senate as to whether or not the previous exclusions should be restricted. House of Representatives Report No. 1038, 87th Congress, First Session, Senate Report No. 880, 87th Congress, First Session, Pages 2, 3, 8 and 9, and House of Representatives Report No. 1474, 87th Congress, Second Session (Conference Report), Page 6. The managers on the part of the House, at Page 6 of the Conference Report, explained the compromise between the aforesaid conflicting views as follows:

"The District of Columbia Unemployment Compensation Act as it is now in effect provides that the term 'employment' does not include service performed in the employ of a corporation, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"The House bill contained no provision to increase the present scope of the coverage of the District of Columbia Unemployment Compensation Act.

"The Senate amendment proposed to revise the present provision relating to the exclusion of certain non-profit organizations to limit the exclusion to handicapped in sheltered workshops, ministers, and members of religious orders.

"The proposed conference substitute would restrict the present exclusion to those organizations organized and operated exclusively for religious or charitable purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual."

As was stated above, the language of the present statutory exclusion is clear and unambiguous on its face, and that exclusively charitable organizations are to be exempt. This position is strongly supported by the legislative history which reflects that the Congress stripped the entitlement to exemption from organizations which were "organized and operated exclusively for * * * scientific, literary or educational purposes" which action did not in any way affect the exemption for exclusively charitable organizations. Accordingly, appellee's action as affirmed by the Court below, allegedly based on an application of the 1962 amendment to appellant, was clearly erroneous as the Congress specifically retained the charitable exclusion.

Appellee has argued, however, that the action of the Congress in eliminating the exemption for scientific, literary or educational purposes should have the force of unduly restricting the definition of the phrase "exclusively charitable". Such argument flies in the face of logic and of prevailing case law. The term "charitable" has a well defined meaning in the field of tax legislation and litigation and the retention of the charitable exemption, without any limitations thereon, must mean that the Congress intended the prevailing view on definition and construction to remain in effect insofar as exemptions under the Unemployment Compensation Act are concerned.

The District Court's opinion in the *Girl Scouts* case (*supra*) concerning the view of Congress has been widely recognized by other Courts in developing a rule of liberal construction in the determination of exemptions under Unemployment Compensation Acts as opposed to the rule of strict construction governing property tax exemptions. This differentiation and the underlying reasons therefore were well stated in *Cedars of Lebanon Hospital v. Los Angeles County*, 221 P.2d 31, 34, 35 Cal.2d 729, 15 A.L.R. 2d 1045, as follows:

"Such rule of strict construction governing property tax exemption is distinguished from the rule of liberal construction applying in the determination of exemption qualifications under social security and unemployment compensation acts. [Citations Omitted.] Exemption provisions in statutes of the latter character will be liberally construed so as to effectuate their beneficent purpose to encourage and promote organizations seeking classification within the broad scope of the statutory language. [Citations Omitted.]"

See also Annotation, 69 A.L.R. 2d 871, "When is corporation, community chest, fund, foundation, or club 'organized and operated

exclusively' for charitable or other exempt purposes under Internal Revenue Code", wherein it is stated at Page 879 that

"The majority view is that the phrase 'organized and operated exclusively' is entitled to a liberal construction in favor of the tax payer."

C. Appellee has ruled that appellant is not exempt; the basis of said ruling being the following finding:

"From an analysis of the information and data submitted it appears that the Foundation is operated for charitable purposes, but, in addition to that, it is also operated for scientific, educational, health and medical purposes as well. For this reason, it can not be said that the Foundation is exclusively charitable."

The error of this ruling is amply demonstrated by previous rulings of appellee that are still in force with respect to other hospitals situated in the District of Columbia. Pursuant to certain interrogatories, appellee listed the following named hospitals as being exempt from the provisions of the Act:

"Casualty Hospital
Childrens Convalescent Hospital
Columbia Hospital for Women
Hadley Memorial Hospital
Providence Hospital"

and submitted copies of all formal rulings granting said exemptions. (JA 57-63) It is noted that the exemption rulings for Casualty Hospital, Childrens Convalescent Hospital and Columbia Hospital for Women were all made prior to the aforementioned 1962 amendment to the Act. The exemption for the Hadley Memorial Hospital, however, was made subsequently to said amendment and appellant urges that the same reasoning announced in the Hadley exemption should be

made applicable to it. The Hadley exemption was based on the following finding:

"An analysis of its purposes would appear to be exclusively religious within the meaning of Section 1(b)(5)(G) of the Act. Its educational purpose would appear to be purely ancillary to its primary religious purpose and would not unclass the organization within the ruling of the United States Court of Appeals for the District of Columbia Circuit in the case of *International Reform Federation v. District Unemployment Compensation Board*, (1943, 131 F.2d 337, 76 U.S. App.D.C. 282, certiorari denied 63 S.Ct. 324, 317 U.S. 693, 87 L.ed. 555)."

It is also noted that Providence Hospital has been administratively declared exempt from the provisions of the Act without formal ruling.

It is an ineluctable fact that a hospital, whether essentially charitable or religious, must, perforce, engage in scientific, educational, health and medical activities: Such is the nature of the beast. It is axiomatic that, if a hospital operated by a religious organization can be exclusively religious for the purposes of the subject Act, a hospital operated by a charitable organization should be considered exclusively charitable for the purposes of the same Act. Appellant is certain that appellee would not deny that the essential functions of the hospitals exempted do not differ materially from the functions of appellant's hospital.

It is appellant's position that the stated basis for denying the exemptions sought is untenable, not only because of the inconsistency disclosed by rulings with regard to other hospitals, but, most importantly, because the denial of exemption to appellant fails to take into account the very nature of a hospital and the services which are rendered to the community. Appellee's narrow construction of "exclu-

sively" fails to distinguish between the primary and inherent purpose of the hospital, to-wit, a charitable organization, and the secondary and incidental purposes which are necessary to carry out its primary purposes. In *State v. Johnston*, 113 S.W. 1083, 1085, 214 Mo. 656, the Court stated:

"The phrase 'exclusively used' has reference to the primary and inherent used as over against a mere secondary and incidental use."

It would appear that appellee reviewed appellant's certificate of incorporation and became unduly alarmed upon discovering that appellant was empowered to carry on scientific, educational, health and medical activities. Were appellant organized only for such purposes, and not merely empowered to engage in such activities to further its charitable purposes, appellee's position might be well taken. Appellee should have considered the primary purpose for which appellant was organized and whether or not its operations are devoted to the furtherance of that purpose. In *Passaic United Hebrew Burial Association v. United States*, 216 F.Supp. 500, 502 (D.C. N.J.), the Court stated:

"Whether or not a corporation is exempt from taxation as a charitable or religious organization is not, of course, to be determined by a mere reading or examination of its corporate charter. The facts in each case must be explored to ascertain the predominant or primary purpose for which the organization was formed, and also the manner of its operations."

The same Court went on, at Page 505, to state the established principle which should be followed in the instant action.

"With an appreciation of the caveat suggested in *Better Business Bureau v. United States*, 326 U.S. 279, 66 S.Ct. 112, 90 L.Ed. 67 (1945), it would still

seem to be an established principle that statutes relating to tax exemption for charitable or religious purposes should be liberally construed. [Cites omitted.]”

II.

The Administrative Decisions of Appellee Should Be Reversed as Appellant Is Entitled to the Statutory Exemption.

Appellant filed timely administrative and judicial appeals from adverse administrative decisions made by appellee in connection with claims filed under the Act by two (2) former employees. Each appeal was based solely on appellant's entitlement to be declared exempt from the provisions of the Act. Appellant, accordingly, relies on Argument I hereinabove and prays that this Court reverse the aforesaid administrative decisions.

CONCLUSION

For the reasons set forth above, appellant respectfully urges that the relief herein sought be granted, that the judgment of the District Court be reversed and that this Court enter judgment declaring appellant to be exempt from the provisions of the District of Columbia Unemployment Compensation Act and reversing the administrative decisions heretofore rendered by appellee.

Respectfully submitted,

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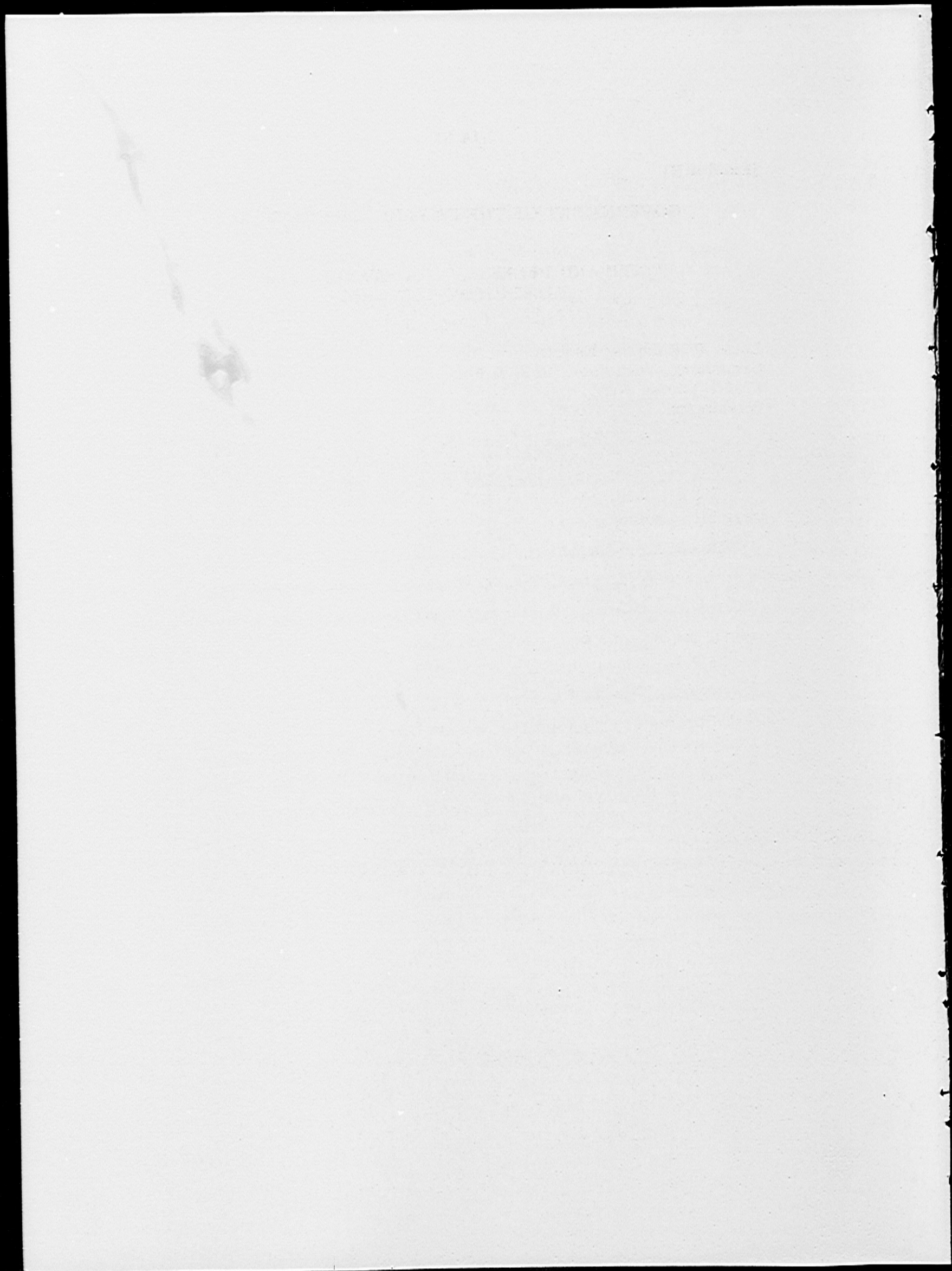
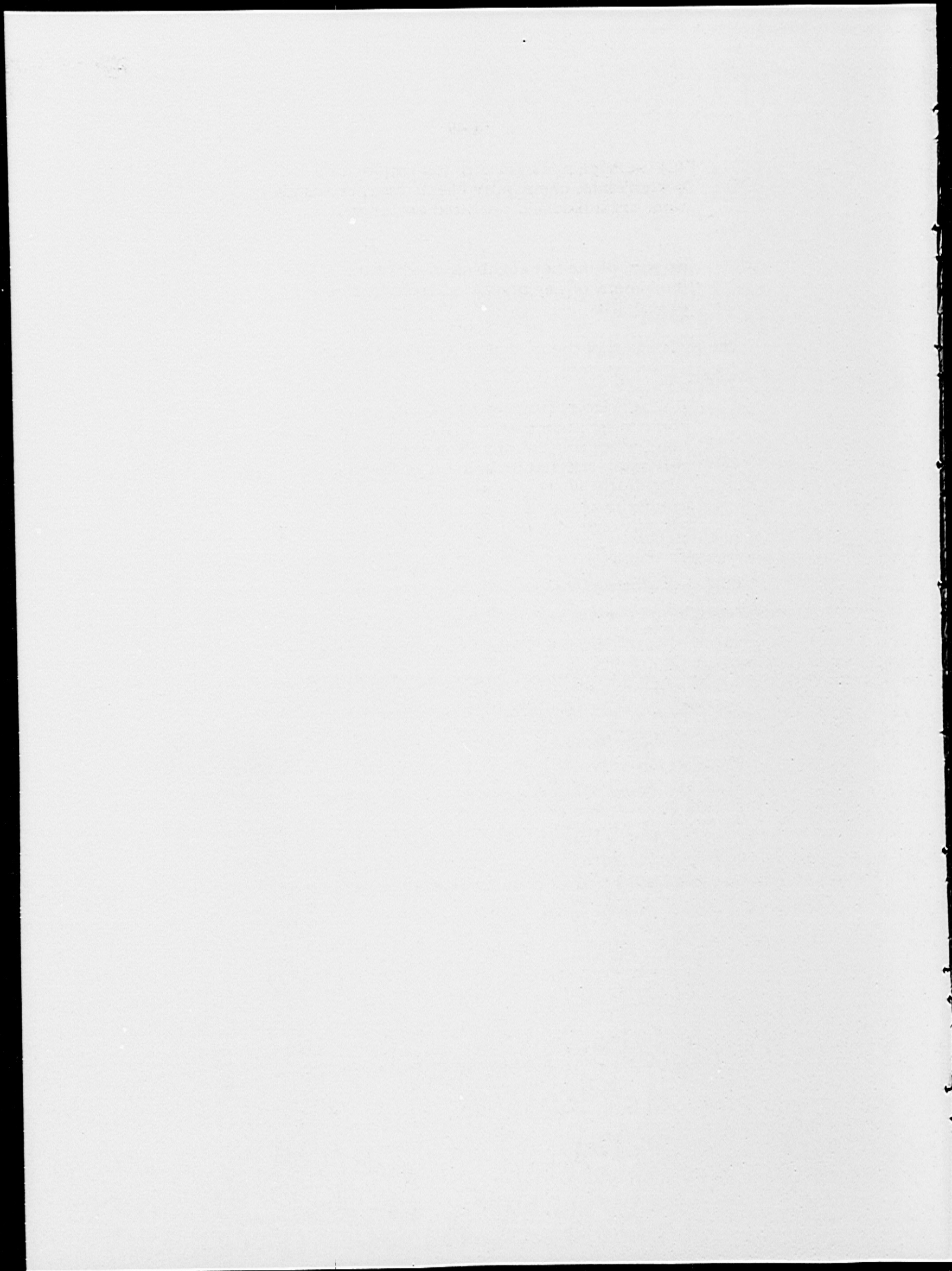


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UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

Civil Division

GREATER SOUTHEAST COMMUNITY
HOSPITAL FOUNDATION, INC.
owner and operator for
MORRIS CAFRITZ MEMORIAL HOSPITAL
1310 Southern Avenue, S.E.
Washington, D. C.

Plaintiff

vs.

Civil Action No.
1462-67

DISTRICT UNEMPLOYMENT
COMPENSATION BOARD
c/o LOUIS MACKALL, Director
Employment Security Building
6th and Pennsylvania Avenue, N.W.
Washington, D. C.

Defendant

COMPLAINT FOR DECLARATORY JUDGMENT AND FOR
REVIEW OF ADMINISTRATIVE DECISIONS

1. Plaintiff is a charitable corporation organized and existing under the laws of the District of Columbia. Defendant is a body corporate established by the Act of August 28, 1935, as amended, (49 Stat. 954, 57 Stat. 121, 68 Stat. 996; Sec. 46-316, D.C. Code, 1961 ed.). This Court's jurisdiction is based on 28 U.S.C. 2201 and Sec. 46-312, D.C. Code, 1961 ed.

2. Plaintiff was incorporated on or about April 18, 1955, under the provisions of Chapter 6, Title 29, D.C. Code, 1961 ed., for the purpose of constructing, maintaining, equipping, owning, managing, and operating a hospital in the District of Columbia and to carry out such related activities as are necessarily associated with the foregoing activities. The plaintiff was "organized exclusively for charitable, health, medical, scientific and educational purposes as a not-

for-profit corporation serving the general community." (Copies of the plaintiff's Certificate of Incorporation and By-Laws are attached hereto and incorporated herein as Exhibits "A" and "B".)

3. Following the incorporation, plaintiff proceeded to acquire a site for the hospital and to acquire funds, commitments and pledges for future funds for the construction, equipping and operation of the hospital. The site was acquired at no cost from the Federal Government, and contributions from the community, grants from the Federal Government under the Hill-Burton and Hospital Center Acts, a grant from Prince George's County, Maryland, a construction loan and the sale of first mortgage bonds in the amount of FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000.00) enabled plaintiff to open the Morris Cafritz Memorial Hospital in April, 1966. (A copy of plaintiff's unaudited financial statement for the last completed calendar year is attached hereto and incorporated herein as Exhibit "C".)

4. Plaintiff has received an Internal Revenue determination that it is exempt from Federal Income Tax pursuant to Sec. 501 (c) (3) of the Internal Revenue Code and it has also received from the District of Columbia exemptions from Real Estate Taxes and Income and Franchise Taxes. (Copies of the aforesaid exemptions are attached hereto and incorporated herein as Exhibits "D", "E" and "F", respectively.)

5. Plaintiff was required to register with the District Unemployment Compensation Board as the services of its employees were deemed to be "employment" under the provisions of the District Unemployment Compensation Act, Chapter 3, Title 46, D.C. Code, 1961 ed. Supp. V, and such registration was made as of November 1, 1966. Subsequently, the Board determined that the services of the plaintiff's employees were employment because it found "that the Foundation is

operated for charitable purposes, but, in addition to that, it is also operated for scientific, educational, health and medical purposes as well" and that, accordingly, it was not operated exclusively for charitable purposes and, therefor, not exempt under Sec. 46-301 (b) (5) (G) D.C. Code, 1961, ed. Supp. V. (A copy of the Board's determination is attached hereto and incorporated herein as Exhibit "G".)

6. Plaintiff states that under the pertinent statute and the prevailing case law, it is a corporation organized exclusively for charitable purposes and asks that this Court declare it to be such and, accordingly, exempt from the coverage of the District Unemployment Compensation Act.

7. Under date of April 24, 1967, an Appeals Examiner of the District Unemployment Compensation Board rendered two (2) adverse decisions against plaintiff. These were in the claims of JOHNSIE B. WITHROW, Appeal #19,259-UI, and EMMA LEE COLEMAN, Appeal #19,070-UI. Plaintiff filed timely appeals from these decisions and on May 9, 1967, the Board affirmed the decision of the Appeals Examiner. In each case the basis of plaintiff's appeal to the Board was that it was exempt under the Act. (Copies of the affirmations are attached hereto and incorporated herein as Exhibits "H" and "I".)

WHEREFORE, Plaintiff prays this Honorable Court:

1. To declare the Greater Southeast Hospital Foundation, Inc., owner and operator for Morris Cafritz Memorial Hospital, to be a charitable corporation within the meaning of Sec. 46-301 (b) (5) (G), D.C. Code, 1961 ed., Supp. V, and therefore exempt from the provisions of the District Unemployment Compensation Act.

2. To review the decisions of the District Unemployment Compensation Board dated May 9, 1967, and reverse said decisions on the basis that plaintiff is a charitable organization.

3. And for such other and further relief as the Court may deem just and proper.

Grossberg, Yochelson, Brill & Fox

By _____
Louis P. Robbins
Attorneys for Plaintiff
1707 H Street, N.W.
Washington, D.C. 20006

[Exhibit A]

CERTIFICATE OF INCORPORATION

We, the undersigned, all citizens of the United States, and citizens and residents of the District of Columbia, of full age, desiring to associate ourselves as a corporation pursuant to the provisions of Title 29 of Chapter 6 of the District of Columbia Code (1951), do hereby certify as follows:

FIRST: The name or title by which this corporation shall be known in law shall be THE GREATER SOUTHEAST COMMUNITY HOSPITAL FOUNDATION, INC.

SECOND: The term for which it is organized shall be perpetual.

THIRD: The principal office of this corporation for its first year of operation shall be at 3014 Nichols Avenue, S.E., Washington, D.C. Ernest J. Read is hereby designated as the resident agent of the corporation in charge of such principal office upon whom process in any action or proceeding against the corporation may be served.

FOURTH: The particular business and objects of said corporation shall be:

(a) To acquire land for, plan for, build, erect, maintain, equip, manage, own, operate and carry on a community, voluntary, non-profit hospital and health center, furnishing medical, hospital, and related health services to persons suffering from illnesses or disabilities which require that such patients receive such medical, hospital and related health services;

(b) To initiate, commence, promote, continue and carry on scientific and other research, studies, experiments and demonstrations into the care and prevention of sickness, injury, physical disability, and disease, either alone or in cooperation with state and local medical and health societies, federal, state and local Departments of Health, and other approved and interested health and welfare foundations, commissions and organizations; and in support thereof, to receive, hold, use and enjoy grants-in-aid, gifts, devises and bequests of property conveyed, transferred or assigned to it by any individual, association, corporation, foundation, commission, organization, or federal, state or local agency or authority to carry out such purposes in such manner as it may deem proper and advisable;

(c) To carry on any educational or training activities related to the care and prevention of sickness, injury and disease or the promotion of health, either alone or in conjunction with other hospital or health institutions or organizations, as may be justified by the facilities, personnel, funds or other requirements that are or can be made available.

(d) To participate, as the circumstances may warrant, in any activity designed and carried or to promote the general health of the community;

(e) To buy, take, receive, hold, sell, transfer and convey both real and personal property, including property and

money that may be given, bequeathed, devised, transferred or conveyed to it, as may be necessary or convenient to carry out such purposes, and to hold, use, apply, and enjoy the profits, rents and income therefrom or from any other real or personal property in any manner deemed most conducive to its interests;

(f) To enter into any contracts or arrangements with any government or authority, federal, state, municipal, local or otherwise, conducive to the purposes stated herein, and to obtain from any such government or authority any and all rights, privileges, grants or concessions relating to any of the objects herein stated; to carry out, exercise, comply with and enforce any such contracts, rights, privileges, and concessions;

(g) To borrow money, and to make and issue notes, bonds, debentures, obligations, and evidences of all kinds, whether secured by mortgage, pledge, or otherwise, without limit as to amount, and to secure the same by mortgage, pledge or otherwise, without limit as to amount; and generally to make and perform agreements and contracts of every kind and description;

(h) To do all and everything necessary, suitable, and proper for the accomplishment of any of the purposes, or the attainment of any of the objects, or the furtherance of any of the powers hereinbefore set forth, either alone or in association with any other corporations, associations, firms, or individuals, or any government or authority, federal, state, municipal, local or otherwise; to carry on any other lawful business which may be carried on in connection with the above purposes; and to do every other act or acts, thing or things, incidental to or appurtenant to or growing out of or connected with the aforesaid pur-

poses, or any part or parts thereof, provided the same be not inconsistent with the laws under which this corporation is organized.

FIFTH: This corporation is organized exclusively for charitable, health, medical, scientific and educational purposes as a not-for-profit corporation serving the general community; it shall have no capital stock; and its activities shall be conducted for the aforesaid purposes in such a manner that no part of its net earnings will inure to the benefit of any member, Trustee, officer or individual, nor shall any member, Trustee, officer or individual at any time, either upon a dissolution of said corporation, or in any other event, be considered to be the owner or entitled to any extent to any of the assets, funds or property of said corporation, all of which assets, funds or property of said corporation shall be exclusively and forever devoted to the erection, maintenance, equipment and/or carrying on of a voluntary, non-profit hospital and health center; nor shall it substantially engage in carrying on propaganda or otherwise attempt to influence legislation.

SIXTH: Should the aims, purposes and objectives of this corporation wholly fail, or be abandoned, or become impracticable, and this corporation be dissolved, either voluntarily or involuntarily, all of the assets, funds, or property of said corporation, wherever situated, remaining after payment of all of its obligations in the manner provided by law, shall be transferred, conveyed and assigned, absolutely, unto that corporation, foundation, association or other organization whose aims, purposes and objectives most nearly correspond with the aims, purposes and objectives of this corporation as herein set out; provided that such transfer, conveyance or assignment shall be effected in accordance with all laws of the United States and the District of Columbia affecting such acts.

SEVENTH: The number of its Trustees for the first year of its existence shall be fifteen (15), who shall be elected at the first meeting of the incorporators to be held not less than five (5) days following the filing of this Certificate of Incorporation. Said Board of Trustees shall forthwith have full management and control over the funds and affairs of this corporation; shall immediately meet and elect, from among themselves, personally or by proxy vote, a President, a First Vice-President, a Second Vice-President, a Third Vice-President, a Treasurer, an Executive Secretary, a Recording Secretary and a Corresponding Secretary, to carry out the business of this corporation, who shall serve until their successors are duly elected and qualified in office in accordance with the provisions of the By-Laws of the corporation hereafter to be made and adopted; shall make and adopt such By-Laws as they deem best relative to the management and disposition of the business and affairs of the corporation and to the admission of members, and alter, amend, revoke or repeal such By-Laws, or make and adopt other By-Laws, not inconsistent with this Certificate of Incorporation, as may be necessary or desired in the conduct of the business and affairs of the corporation, and from time to time, a Code of Ethics, By-Laws, rules and regulations, and policies governing the hospital medical and administrative staff, and operating activities of the hospital. Such Board of Trustees shall continue in office until the first annual meeting of the members, as determined by the By-Laws of the corporation, at which time a Board of Trustees of fifteen (15) members shall be elected, five (5) of whom shall be elected for one (1) year, five (5) for two (2) years, and five (5) for three (3) years; and at each annual meeting thereafter, successors to the Trustees whose terms then expire shall be elected for a term of three (3) years. Vacancies occurring in the office of Trustees by reason of death,

resignation, or otherwise, shall be filled by election by the remaining members of the Board of Trustees. Such Trustee or Trustees so elected shall hold office until the next regular annual meeting of the corporation, at which time a successor shall be elected to fulfill the unexpired term of office of the member or members so causing the vacancy or vacancies.

IN WITNESS WHEREOF, we have this 18th day of April, 1955, hereunto set our hands and seals.

/s/ Ernest J. Read (Seal)
3014 Nichols Avenue, S.E.
Washington, D.C.

/s/ W. Ledru Koontz (Seal)
1345 Good Hope Road, S.E.
Washington, D.C.

/s/ William J. Smith (Seal)
3651 Suitland Road, S.E.
Washington, D. C.

/s/ Otis R. Farley (Seal)
St. Elizabeths Hospital
Washington, D.C.

/s/ Leon L. Cohen (Seal)
3604 Austin Street, S.E.
Washington, D.C.

/s/ Jean R. Oakley (Seal)
3937 Pennsylvania Ave., S.E.
Washington, D.C.

DISTRICT OF COLUMBIA, ss:

I, Alta A. Elderkin, a Notary Public in and for the District of Columbia, do hereby certify that ERNEST J. READ, W. LEDRU KOONTZ, WILLIAM J. SMITH, OTIS R. FARLEY, LEON L. COHEN and JEAN R. OAKLEY, parties to a certain Certificate of Incorporation bearing date the 18th day of April, 1955, and hereunto annexed, personally appeared before me in said District, the said ERNEST J. READ, W.

LEDRU KOONTZ, WILLIAM J. SMITH, OTIS R. FARLEY, LEON L. COHEN and JEAN R. OAKLEY being personally well known to me as the persons who executed the said Certificate of Incorporation, and acknowledged the same to be their act and deed.

GIVEN under my hand and seal this 18th day of April, 1955.

/s/ Alta A. Elderkin
Notary Public, D.C.

My Commission expires June 30, 1957.

CERTIFICATE OF AMENDMENT TO THE
CORPORATE CHARTER OF THE GREATER
SOUTHEAST COMMUNITY HOSPITAL
FOUNDATION, INC.

By authority of resolution duly passed by a vote of two-thirds of the Board of Trustees of the Greater Southeast Community Hospital Foundation, Inc., at its regular meeting held on September 9, 1958, the paragraph third of the Certificate of Incorporation is hereby amended as follows:

"THIRD: The principal office of this corporation is 1345 Good Hope Road, S.E., Washington, D.C. W. Ledru Koontz whose address is 1348 Good Hope Road, S.E., is hereby designated as the resident agent of the Corporation upon whom process in any action or proceeding against the Corporation may be served."

Dated Oct. 29th, 1958.

(Corporate Seal)

Attest:

By: /s/ Raymond J. McDonough
Its President

By: /s/
Its Executive Secretary

DISTRICT OF COLUMBIA, SS:

I, Grace H. Dyer, a notary public, do hereby certify that on this 29th day of September, 1958, personally appeared before me Raymond J. McDonough, who, being by me first duly sworn, declared that he is the President of the Greater Southeast Community Hospital Foundation, Inc., that he signed the foregoing document as President of the Corporation, and that the statements therein contained are true.

/s/ Grace H. Dyer
Notary Public

My Commission expires 6/14/61.

CERTIFICATE OF AMENDMENT TO
THE CORPORATE CHARTER OF THE
GREATER SOUTHEAST COMMUNITY
HOSPITAL FOUNDATION, INC.

By authority of resolution duly passed by a vote of two-thirds of the Board of Trustees of The Greater Southeast Community Hospital Foundation, Inc., at its regular meeting held on March 15, 1966, the paragraph third of the Certificate of Incorporation is hereby amended as follows:

"THIRD: The principal office of this Corporation is 1310 Southern Avenue, S.E., Washington, D.C. W. Ledru Koontz whose address is 1348 Good Hope Road, S.E., is hereby designated as the resident agent of the Corporation upon whom process in any action or proceeding against the Corporation may be served."

Dated March 15, 1966

(Corporate Seal)

JA 12

Attest:

By /s/ Raymond J. McDonough
Its President

By: /s/
Its Executive Secretary

DISTRICT OF COLUMBIA, SS:

I, Florence E. Violett, a notary public, do hereby certify that on this 15th day of March, 1966, personally appeared before me Raymond J. McDonough, who, being by me first duly sworn, declared that he is the President of the Greater Southeast Community Hospital Foundation, Inc., that he signed the foregoing document as President of the Corporation, and that the statements therein contained are true.

/s/ Florence E. Violett
Notary Public

My Commission expires 9/30/68.

[Exhibit B]

BYLAWS
OF
THE GREATER SOUTHEAST COMMUNITY
HOSPITAL FOUNDATION, INC.

Revised April 11, 1967

THE GREATER SOUTHEAST COMMUNITY
HOSPITAL FOUNDATION, INC.

BYLAWS

ARTICLE I. IDENTIFICATION

1. The name of the Corporation shall be THE GREATER SOUTHEAST COMMUNITY HOSPITAL FOUNDATION, INC., (hereinafter referred to as the "Corporation").

2. The principal office of the Corporation shall be at 1310 Southern Avenue, S.E., Washington, D.C. 20032. The Corporation may have offices at such other places as the Board of Trustees may designate from time to time.

3. The seal of the Corporation shall be circular in form and mounted upon a metal die, suitable for impressing upon paper. About the upper periphery of the seal shall appear the words, "THE GREATER SOUTHEAST COMMUNITY HOSPITAL FOUNDATION, INC.", and about the lower periphery thereof the words, "WASHINGTON, D.C." In the center of the seal shall appear the words, "CORPORATE SEAL" and "1955."

4. The Corporation is owner and operator of The Morris Cafritz Memorial Hospital (hereinafter referred to as the "Hospital.")

5. The fiscal year of the Corporation and the Hospital shall commence on January 1 and end December 31 of each year.

ARTICLE II. MEMBERSHIP

1. The membership year shall be from May 1 to April 30 of any given year.

2. The membership of the Corporation shall consist of the Charter and Life members, organizations as defined below, and such other individuals who have reached the age of 18 years or more, who are interested in the attainment of the objects and purposes of the Corporation, who make application, and who are thereafter approved and elected to such membership by the Board of Trustees or by such committee as the Board may designate.

3. Membership in the Corporation shall be of five (5) classes:

CHARTER MEMBERS: Those persons who subscribed the Certificate of Incorporation by which this Corporation was organized, and who shall retain their membership during their natural lives.

LIFE MEMBERS: Those persons, corporations, partnerships, business concerns or associations, social, civic, religious, community or otherwise, who shall contribute to the Corporation the sum of One Thousand Dollars (\$1,000.00) over a period of three (3) consecutive membership years in installments which average not less than \$333.33 for any one year, and who upon payment of the total shall have for life the privileges of other members.

HONORARY MEMBERS: Those persons who shall have especially distinguished themselves in advancing the interests of the Corporation. Their number shall be determined by the Board of Trustees.

MEMBERS: Dues shall be Ten Dollars (\$10.00) payable yearly.

ORGANIZATIONAL MEMBERS: Those corporations partnerships, business concerns or associations, social, civic, religious, community or otherwise, who shall contribute to the Corporation the sum of not less than Fifty Dollars (\$50.00) on an annual basis. Each such member may appoint a delegate to act as its representative at all annual or special meetings and said delegate shall be entitled to only one (1) vote.

4. Upon payment of such dues and approval and election as provided in Section 2 hereof, all persons shall be entitled to all the privileges and duties of membership in the Corporation for the current membership year.

5. Each member shall be qualified and privileged to originate and take part in any discussion of any subject, and to hold any office to which he or she may be elected or appointed.

6. Only those members who shall have paid dues of Ten Dollars (\$10.00) or more and all Charter and Life members shall be entitled to vote at annual or special meetings of the membership of the Corporation, or to make and endorse nominations of persons for election to the Board of Trustees. Every such member shall be entitled to only one (1) vote in person.

7. Any member may nominate a candidate for election to the Board of Trustees at the next annual meeting of the membership, by submitting such nomination to the Executive Secretary together with the endorsement of such member's candidacy by ten (10) other members. Such nominations shall be presented to the Executive Secretary at least thirty (30) days prior to the next annual meeting of the membership, and shall be contained in the list of candidates submitted to the membership in the notice of the next annual meeting.

ARTICLE III. TRUSTEES

1. The business, property and affairs of the Corporation shall be managed by a Board of Trustees.

2. All of the Trustees shall be at least twenty-one (21) years of age, citizens of the United States, and members of the Corporation. At all times at least forty (40) per cent of the Trustees shall be residents of the District of Columbia, and at least forty (40) per cent shall be residents of Prince George's County. With the maxi-

mum number of authorized Trustees of twenty-four (24) representation from each jurisdiction shall be not less than ten (10).

3. The number of Trustees may be increased or decreased from time to time by vote of the members of the Board, but in no case shall the number of Trustees be less than twelve (12) nor more than twenty-four (24).

4. At each annual meeting successors to the Trustees whose terms expire shall be elected for a term of three (3) years. Each Trustee shall continue to serve until his or her successor shall have been duly elected and qualified. Should the annual meeting of members not be held at the time prescribed in Section 5 of Article VIII of these Bylaws, the election of Trustees may be held at any meeting thereafter called pursuant to these Bylaws.

5. Any member of the Board of Trustees or Honorary Trustee may be removed for cause upon a three-fourths (3/4) vote of the remaining members of the Board.

6. Any vacancy occurring in the Board of Trustees may be filled by the affirmative vote of a majority of the remaining Trustees, though less than a quorum of the Board of Trustees. A Trustee elected to fill a vacancy shall be elected to fulfill the unexpired term of his predecessor in office.

7. No Trustee shall receive compensation for his or her services as a Trustee; provided, however, that expenses incurred by any Trustee on account of the Corporation in the course of the performance of his or her duties shall be reimbursed by the Treasurer out of Corporate funds to such Trustee upon the approval of his or her voucher therefor by a majority of the Board of Trustees.

8. The Board of Trustees shall have the power to elect as Honorary Trustees outstanding members of the community who are serving or have served the Foundation. Such Honorary Trustees

may be elected at any regular meeting of the Board of Trustees, by a majority vote of the Trustees present. Honorary Trusteeship shall be for life except as provided in Article III, Section 5 above. No more than five (5) Honorary Trustees may be elected during any one membership year. Names of persons proposed for Honorary Trusteeship shall be submitted by the Nominating Committee of the Board of Trustees. Duties and responsibilities of Trustees as enumerated in these Bylaws are not applicable to Honorary Trustees; Honorary Trustees are, however, entitled to attend meetings of the Board of Trustees and, although without a vote, may be asked to participate in discussions at the discretion of the Chair. Honorary Trustees designated during the previous year shall be announced at each Annual Meeting of the Corporation.

9. An annual report of the business of the Corporation shall be prepared in form authorized by the Trustees. Such report shall be based upon an annual audit of the financial affairs of the Corporation to be made by a qualified public accountant to be selected by the Trustees.

10. At each annual meeting of the members, the Trustees shall submit a statement of business done during the preceding year, together with a report of the general financial condition of the Corporation, and of the condition of its real and tangible property.

11. The Board of Trustees shall meet each year immediately after the annual meeting of the members for the purpose of organization, election of officers, and consideration of any other business that may be properly brought before the meeting.

12. The annual meetings of the Trustees shall be held in the principal office of the Corporation or at such other place as may have been designated by the President.

13. The Constitution and Bylaws of a Women's Auxiliary or any other affiliated organization shall be presented to the Board of Trustees for approval prior to becoming effective.

ARTICLE IV. HOSPITAL ADMINISTRATION

1. The Board of Trustees shall select and employ a competent experienced administrator who shall be its direct executive representative in the management of the Hospital. This administrator shall be given the necessary authority and be held responsible for the administration of the Hospital in all its activities and departments subject only to such policies as may be adopted and such orders as may be issued by the Board of Trustees or by any of its committees to which it has been delegated power for such action. He shall act as the authorized representative of the Board of Trustees in all matters in which the Board of Trustees has not formally designated some other person for that specific purpose.

2. The authority and duties of the administrator shall include:

- (a) to be responsible for carrying out all policies established by the Board of Trustees, (b) to perfect and submit to the Board of Trustees for approval a plan of organization of the personnel and others concerned with the operation of the Hospital, (c) to prepare an annual budget showing the expected receipts and expenditures as required by the Finance and Executive Committees, (d) to develop and maintain personnel policies and practices for the Hospital, (e) to maintain all physical properties in a good state of repair and operating condition, (f) to supervise all business affairs including the collection and expenditure of funds and the approval and execution of contracts. Provided, that all contracts for the conveyancing of real property, or construction of new facilities shall be approved by the Executive Committee and executed by the President and Executive

Secretary and, Provided further, that all contracts calling for the payment by or to the Corporation of a sum in excess of Twenty-five Thousand Dollars (\$25,000) within any fiscal year of the Corporation shall be approved by the Executive Committee and executed by the Administrator, (g) to work with the Medical Staff and with all those concerned with the rendering of professional service to the end that the best possible care may be rendered to all the patients, (h) to submit regularly to the Board of Trustees or its authorized committees periodic reports showing the professional service and financial activities of the Hospital and to prepare and submit such special reports as may be required by the Board of Trustees, (i) to attend all meetings of the Board of Trustees and its committees, (j) to perform any other duty that may be necessary in the best interest of the Hospital, (k) to serve as the liaison officer and channel of communications for all official communications between the Board of Trustees or any of its committees and the Medical Staff, (l) to appoint and discharge agents and employees, such appointments, however, to be subject to the limitation contained in section (f) hereinabove, (m) to attend to the giving and serving of all notices of the Corporation; to maintain a comprehensive and complete roster of all members of the Corporation, and to maintain such files on correspondence and other records, except financial, of the Corporation as may be directed by the Board of Trustees and the Executive Committee.

ARTICLE V. MEDICAL STAFF

1. The Board of Trustees shall appoint a Medical Staff composed of physicians and dentists who are graduates of recognized medical or dental schools. The Board of Trustees shall see that they are organized into a responsible administrative unit, and adopt such bylaws, rules and regulations for government of their practice

in the Hospital as the Board of Trustees deems to be the greatest benefit to the care of patients within the Hospital. In the case of the individual patient, the physician duly appointed to the Medical Staff shall have full authority and responsibility for the care of that patient subject only to such limitations as the Board of Trustees may formally impose and to the bylaws, rules and regulations for the Medical Staff adopted by the staff and the Board of Trustees.

2. All applications for appointment to the Medical Staff shall be in writing and addressed to the administrator of the hospital.

3. All appointments to the Medical Staff shall be for one year only, renewable by the Board of Trustees without reapplication.

4. Bylaws, rules and regulations for the Medical Staff setting forth its organization and government shall be recommended by the Medical Staff, and such bylaws as approved by the Board of Trustees, shall become part of the bylaws of the Hospital.

5. Any member of the Medical Staff of the Hospital may be suspended or discharged and/or barred from practicing therein upon a two-thirds (2/3) vote of all of the Board of Trustees; provided that consideration is given to recommendation(s) of the Medical Staff Executive Committee.

ARTICLE VI. OFFICERS

1. The officers of the Corporation shall be a President, a First Vice President, Second Vice President, Third Vice President, Executive Secretary, Assistant Executive Secretary, Recording Secretary, and Treasurer, all of whom shall be elected by and subject to the control of the Board of Trustees, for a term of one (1) year, or until his or her successor is duly elected and qualified; such election to be held at the Trustees' meeting following each annual meeting of the members of the Corporation.

2. Whenever any vacancies shall occur in any office by reason of death, resignation or otherwise, the same shall be filled by majority election of the Board of Trustees, and the officers so elected shall hold office until his successor is chosen and qualified.

3. No person shall hold any office who is not a Trustee and member of the Corporation.

4. Any persons holding office as President or Vice President who ceases to be a Trustee, shall cease to hold such office as soon as his successor is elected and qualified.

5. The Board of Trustees may appoint such other officers as they may deem necessary, who shall have authority and shall perform such duties as from time to time may be prescribed by the Board of Trustees.

6. All officers shall be subject to removal at any time by vote of two-thirds (2/3) of the whole Board of Trustees. All officers, agents and employees, other than officers selected or appointed by the Board of Trustees, shall hold office at the discretion of the Committee or Officer appointing them.

7. All salaries of officers, employees, or agents of the Corporation shall be fixed by the Board of Trustees.

8. The President shall preside at all Trustees' and members' meetings; shall have the general and active supervision, charge and control over the affairs of the corporation and over the other officers; shall execute with the Executive Secretary all contracts of the Corporation for the conveyancing of real property or construction of new facilities or major structural alterations in existing facilities; and shall perform all such other duties as are incident to his office.

9. The Vice Presidents in order of precedence shall perform the duties of the President whenever the President is for any reason absent or unable to serve.

10. The Executive Secretary shall execute with the President all contracts for the conveyancing of real property or the construction of new facilities or major structural alterations in existing facilities, and shall sign and execute such other documents and instruments as the business of the Corporation may require. He shall have custody of the official seal of the Corporation and shall affix the seal of the Corporation to any and all documents. He shall retain its Certificate of Incorporation and ByLaws, and such other books and records as the Board of Trustees or Executive Committee shall direct, all of which shall, at all reasonable times, be open to examination by any Trustee or officer. He shall be responsible for recommending amendments to the Certificate of Incorporation and Bylaws to the Board of Trustees and shall take such steps as are required by law to effectuate the amendment or repeal of any provision of said Certificate of Incorporation and Bylaws as are approved by the Board of Trustees.

11. The Assistant Executive Secretary shall perform the duties of the Executive Secretary whenever the Executive Secretary is for any reason absent or unable to serve.

12. The Recording Secretary shall attend all meetings of the Board of Trustees and the members of the Corporation, and shall keep or cause to be kept in a book provided for that purpose, a true and complete record of proceedings of such meetings.

13. The Treasurer shall collect and receive all dues and other moneys belonging to the Corporation; shall pay all demands authorized by the Board of Trustees; shall have general supervision over insurance; shall obtain and maintain all income tax, and other exemptions afforded a charitable non-profit corporation, shall keep regular books of account, and shall submit them, together with his vouchers, receipts, expenditures, records and other papers to the Executive Committee and the Board of Trustees for their examination and ap-

proval as often as they may require. An abstract of such accounts shall be submitted to the Board of Trustees at each of its regular meetings. He shall be responsible for preparing the annual financial report of the Corporation. He shall deposit all funds of the Corporation coming into his hands in such bank or banks or other financial institutions as directed by the Board of Trustees, and shall keep such account or accounts in the name of the Corporation. He shall have care over the investments of the Corporation and shall keep all bonds, mortgages and other securities in a custody account with such bank.

14. All officers shall perform such other duties, in addition to those specifically prescribed, as may be required by the Board of Trustees.

15. All officers of the Corporation shall act under the direction of the President and subject to the advice of the Board of Trustees and other members of the Executive Committee. No action of any officer which would commit the Corporation to do any act or thing shall be authorized, unless the prior consent of a majority of the Executive Committee to such commitment is first obtained.

ARTICLE VII. COMMITTEES

1. The Executive Committee shall consist of the President, as Chairman, The First Vice President, the Second Vice President, the Executive Secretary, the Treasurer, and three (3) members of the Board of Trustees elected by the Board of Trustees at its first meeting after its election. At all times at least forty (40) per cent of the members of this Committee shall be residents of the District of Columbia, and at least forty (40) per cent shall be residents of Prince George's County.

2. The Executive Committee shall have power to transact all regular business of the Corporation during the interim between meetings of the Board of Trustees, provided any action taken shall not conflict with the policies and expressed wishes of the Board of Trustees, and that it shall refer all matters of major importance to the Board of Trustees.

3. The Executive Committee shall approve all contracts for the conveyancing of real property or construction of new facilities or major structural alteration in existing facilities, and all such contracts, upon approval by the Executive Committee, shall be executed by the President and the Executive Secretary. Additionally, all contracts calling for the payment by or to the Corporation of a sum in excess of Twenty-five Thousand Dollars (\$25,000) within any fiscal year of the Corporation shall be approved by the Executive Committee and executed by the Administrator.

4. The President shall appoint such committees as he deems necessary to fulfill the objectives and purposes for which this Corporation was formed, and shall direct the activities of such committees.

ARTICLE VIII. MEETINGS

1. Meetings of the general body of the members of the Corporation, other than annual meetings, may be called at any time by the President, the Executive Committee, or upon petition to the President of fifty (50) members of the Corporation.

2. Regular meetings of the Board of Trustees of this Corporation must be held quarterly on the second Tuesday after the first Monday in the months of April, July, October and January at a place to be designated by the President.

3. Meetings of the Executive Committee shall be held monthly at a time and date fixed by the Committee at its first meeting follow-

ing the annual meeting of the Corporation. All meetings of the Executive Committee shall be open to all members of the Board of Trustees. By unanimous consent, special meetings may be held without notice, at any time and place.

4. Special meetings of the Board of Trustees or the Executive Committee may be called at any time by the President, or upon request of three (3) members thereof. By unanimous consent of the Trustees, special meetings of the Board of Trustees may be held at any time and place without notice.

5. Annual meetings of the members of the Corporation shall be held on the fourth Tuesday of each April or at such other time during the week in which the fourth Tuesday in April falls, as shall be designated by the President when he designates the time and place of the meeting. Members of the Corporation shall be given a minimum of ten (10) days' notice setting forth the time, date and place said meeting is to be held.

6. At the discretion of the Board of Trustees, any meeting of the Corporation, its members, Trustees, or Executive Committee, may be declared an open meeting for the purpose of inviting any persons not members thereof to attend such meetings in order to become acquainted with present and future activities of the Corporation or Hospital, and to entertain any recommendations of such persons regarding the operation of the Corporation or Hospital.

7. Notice of the time and place of the holding of each meeting shall be given by mail at least five (5) days before each meeting to each member, if a meeting of the general body of the Corporation; to each Trustee, if a regular meeting of the Executive Committee; or to each Trustee, if a meeting of the Board of Trustees; or to such other persons as may be invited to an open meeting of the Corporation, its members, Trustees, or Executive Committee. All no-

tices of annual meetings of members shall also contain a statement of the number of Trustees to be elected at such meeting, and a list of the candidates therefor. All notices of special meetings shall state the purpose thereof.

8. A quorum at meetings of the general body of members of the Corporation shall consist of not less than twenty-four (24) members. A quorum at the meetings of the Executive Committee shall consist of not less than four (4) Committee members. A quorum at meetings of the Board of Trustees shall consist of not less than nine (9) of the Trustees. The act of the majority of those voting at such meetings at which a quorum is present shall constitute the act of the whole, except as otherwise provided herein.

9. The following order of business shall be observed at all general meetings:

- (a) Call to order
- (b) Certification of quorum
- (c) Reading, correcting and approving minutes of previous meeting
- (d) Reports of officers
- (e) Reports of committees
- (f) Admission of new members
- (g) Election of Trustees and/or officers at the time specified for such elections
- (h) Unfinished business
- (i) Communications
- (j) New business
- (k) Adjournment

10. The following order of business shall be observed at all special meetings:

- (a) Call to order
- (b) Certification of quorum
- (c) Transaction of business for which meeting was called
- (d) Adjournment

ARTICLE IX. DONATIONS, GIFTS, EARNINGS AND
REVENUE OR OTHER PAYMENTS

1. Any gifts, devises, bequests, donations, subscriptions, or other payment made by a person or persons to the Foundation without specific direction as to the use thereof, shall, upon acceptance, be used for the establishment, maintenance or operation of said Hospital; but any such payments and things of value made to the Foundation with specific directions as to the use thereof, shall, upon acceptance, be received, held and used by the Foundation in conformity with said directions.

2. The revenue or other payments, earnings and surplus derived from the operation of the Hospital, and from gifts, devises, bequests, donations, appropriations, grants or loans and other sources shall be applied to the costs and expenses of establishing, maintaining and operating said Hospital or its facilities; the acquiring of the property or equipment; and the upkeep, maintenance, repair and replacement of any equipment or other property. Any surplus remaining after the payment of aforesaid costs and expenses shall be subject to such use or disposal by the Board of Trustees as may be consistent with the purposes set forth in the Certificate of Incorporation and the By-laws of the Corporation.

ARTICLE X. GENERAL

1. The name of the Hospital and its buildings shall be determined by a majority vote of the whole Board of Trustees.

2. The Hospital and all of its facilities shall be open for use to all persons regardless of sex, race, creed or color.

3. No organization, association, society or person shall be permitted to arrange for or take up any kind of performance or charity drive or money drive or other solicitation for the benefit of the Cor-

poration and its hospital, or for any other purposes wherein the name of the Corporation or its hospital shall be used, unless the written consent of the Board of Trustees to such undertaking shall first be had and obtained.

4. Roberts' Rules of Order, Revised, shall be the parliamentary guide and govern procedures of the Corporation and of the Board of Trustees, when not in conflict with provisions of these Bylaws.

ARTICLE XI. AMENDMENTS TO THE BYLAWS

1. These Bylaws shall go into effect upon their adoption by a two-thirds (2/3) vote of the Board of Trustees, and may be amended, altered, repealed, or revoked and other Bylaws adopted, by affirmative vote of a majority of the Board of Trustees; provided that at least ten (10) days' notice of such proposed amendment, alteration, repeal or revocation shall have been given in writing to each Trustee before the regular or special meeting of the Board of Trustees at which such action shall be considered; and provided, further, that any ten (10) members in good standing may petition the Board of Trustees for amendment, alteration, repeal or revocation of these Bylaws, after which the Administrator shall give due notice of such proposals as above specified.

BALANCE SHEETS

THE MORRIS CAFRITZ MEMORIAL HOSPITAL

December 31, 1966

ASSETS

Cash - Working capital and interest fund \$ 16,981.36
 - Construction and equipment fund 199.94
 - Unrestricted 152,368.24 \$ 169,549.54
 Accounts receivable: \$ 590,951.26
 Patient accounts, less allowance 216,618.88
 Pledges, less allowance 38,585.52
 Other 846,155.66
 Inventories of supplies - at cost 93,415.81
 Prepaid expenses 6,750.00
 Marketable securities - at cost 16,657.75
 Pre-opening costs, less amortization of \$52,685.73 158,057.26
 Bond expense, less amortization of \$16,944.00 307,880.34
 Grants due from Federal Government 130,604.00
\$1,729,070.36

GENERAL FUND

LIABILITIES AND FUNDS

Accounts payable and accrued expenses:
 Accounts payable \$ 647,343.01
 Professional fees 53,696.28
 Payroll taxes and deductions. 49,443.85
 Salaries and wages 49,492.16
 Notes payable 368,413.94
 Due to Plant Fund 353,122.16
\$1,521,511.34
 6% First Mortgage Serial Bonds 4,360,000.00
\$5,881,511.34
 General fund balance, including \$25,000.00 restricted for equipment purchases (4,152,440.98)
\$1,729,070.36

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PLANT FUND

Investments in plant assets:

Land - at 1966 appraisal
 - at cost

Buildings - at cost
 Permanent fixtures - at cost
 Equipment - at cost

Less allowances for depreciation

Plant fund:

Capital invested in plant assets
 Reserve for improvement and replacement

\$1,175,000.00
30,772.40
 \$1,205,772.40

\$10,954,797.47

353,122.16

\$4,702,257.92
 4,204,524.97
 1,195,364.34
\$10,102,147.23

353,122.16 9,749,025.07
\$10,954,797.47

Improvement and replacement fund:

Due from General Fund

353,122.16
\$11,307,919.63

\$11,307,919.63

STATEMENT OF GENERAL FUND REVENUE AND EXPENSES
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Period ended December 31, 1966

Operating revenue			\$ 2,278,891.10
Operating expenses:			
Salaries and wages	\$	1,461,819.18	
Supplies		446,163.47	
Other contractual services		622,905.65	2,530,828.30
			<u>\$ 251,997.20</u>
Amortization of pre-opening costs	\$	52,685.73	
Provision for depreciation		353,122.16	405,807.89
			<u>\$ 657,805.09</u>
Other revenue:			
Pledges, net of write-offs	\$	282,470.90	
Interest and dividends		9,991.49	
	\$	292,462.39	
Other deductions:			
Amortization of bond expense	\$	16,944.00	
Interest		129,764.95	
	\$	146,708.95	\$ 145,753.44
			<u>\$ 145,753.44</u>
EXCESS OF EXPENSES OVER REVENUE			<u>\$ 512,051.65</u>

STATEMENT OF GENERAL FUND REVENUE AND EXPENSES
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Month of December, 1966

Operating revenue		\$	374,880.80
Operating expenses:			
Salaries and wages	\$	202,909.31	
Supplies		71,312.70	
Other contractual services		86,370.77	360,592.78
Amortization of pre-opening costs	\$	5,853.97	\$ 14,288.02
Provision for depreciation		39,235.79	45,089.76
			\$ 30,801.74
Other revenue:			
Pledges, net of write-offs	\$	25,578.26	
Interest and dividends		4,779.53	
	\$	30,357.79	
Other deductions:			
Amortization of bond expense	\$	1,882.67	
Interest		23,967.29	
	\$	25,849.96	4,507.83
EXCESS OF EXPENSES OVER REVENUE		\$	<u>26,293.91</u>

STATEMENT OF CHANGES IN FUND BALANCES
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Period ended December 31, 1966

GENERAL FUND

Balance January 1, 1966		\$ (2,660,868.85)
Additions:		
Grants	\$ 1,980,125.36	
Provision for depreciation	<u>353,122.16</u>	<u>2,333,247.52</u>
		\$ 327,621.33
Deductions:		
Write-off of pledges made in prior years	\$ 152,533.16	
Excess of expenses over revenue	512,051.65	
Depreciation funded	353,122.16	
Purchase of plant assets	<u>2,807,112.68</u>	<u>3,824,819.65</u>
		\$ <u>(4,152,440.98)</u>

PLANT FUND

Capital invested in plant assets:		
Balance January 1, 1966		\$ 8,500,806.95
Addition:		
Purchase of plant assets		<u>2,807,112.68</u>
		\$ 11,307,919.63
Deduction:		
Provision for depreciation		<u>353,122.16</u>
		\$ 10,954,797.47
Reserve for improvement and replacement:		
Balance January 1, 1966	\$ -0-	
Addition:		
Funded depreciation	<u>353,122.16</u>	<u>353,122.16</u>
		\$ <u>11,307,919.63</u>

OPERATING REVENUE
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Period ended December 31, 1966

	<u>In Patient</u>	<u>Out Patient</u>	<u>Emergency</u>	<u>Total</u>
Services to patients:				
Room and care -				
Private	\$ 98,004.00	\$ -0-	\$ -0-	\$ 98,004.00
Semi	1,081,644.75	-0-	-0-	1,081,644.75
Nursery	24,785.00	-0-	-0-	24,785.00
Operating room	154,756.40	7,320.00	1,424.50	163,500.90
Recovery room	24,295.01	-0-	-0-	24,295.01
Anesthesia	24,376.15	-0-	16.10	24,392.25
Oxygen	35,436.00	-0-	137.00	35,573.00
Radiology	161,407.38	23,920.50	54,897.00	240,224.88
Isotope	17,917.00	1,332.00	35.00	19,284.00
Laboratory	236,021.13	6,942.75	4,506.00	247,469.88
Electrocardiography	29,583.50	555.00	2,054.50	32,193.00
Intravenous therapy	43,093.75	57.50	403.50	43,554.75
Pharmacy	105,781.89	1,658.50	9,576.83	117,017.22
Emergency room	12,723.60	242.00	123,928.15	136,893.75
Delivery room	18,060.00	-0-	-0-	18,060.00
Central supply	73,350.73	167.08	13,648.55	87,166.36
Other	2,025.00	-0-	-0-	2,025.00
	<u>\$2,143,261.29</u>	<u>\$ 42,195.33</u>	<u>\$ 210,627.13</u>	<u>\$2,396,083.75</u>
Less provisions for uncollectible accounts, adjustments, and allowances				<u>184,009.98</u>
				<u>\$2,212,073.77</u>
Other operating revenue:				
Cafeteria		\$ 53,478.19		
Gift Shop		1,500.00		
Vending		2,444.35		
Other		9,394.79		66,817.33
				<u>\$2,278,891.10</u>

OPERATING REVENUE
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Month of December, 1966

	<u>In Patient</u>	<u>Out Patient</u>	<u>Emergency</u>	<u>Total</u>
Services to patients:				
Room and care -				
Private	\$ 15,680.00	\$ -0-	\$ -0-	\$ 15,680.00
Semi	170,696.00	-0-	-0-	170,696.00
Nursery	7,720.00	-0-	-0-	7,720.00
Operating room	22,283.00	920.00	16.50	23,219.50
Recovery room	3,912.50	-0-	-0-	3,912.50
Anesthesia	4,126.25	-0-	-0-	4,126.25
Oxygen	6,203.00	-0-	26.00	6,229.00
Radiology	25,481.38	4,660.50	7,902.50	38,044.38
Isotope	3,212.00	231.00	-0-	3,443.00
Laboratory	44,085.75	1,378.00	742.50	46,206.25
Electrocardiography	5,460.00	120.00	360.00	5,940.00
Intravenous therapy	8,265.25	26.00	41.50	8,332.75
Pharmacy	17,643.31	359.90	1,385.90	19,389.11
Emergency room	2,295.10	76.00	16,788.50	19,159.60
Delivery room	5,620.00	-0-	-0-	5,620.00
Central supply	14,589.80	42.10	1,554.40	16,186.30
Other	1,740.00	-0-	-0-	1,740.00
	<u>\$359,013.34</u>	<u>\$ 7,813.50</u>	<u>\$ 28,817.80</u>	<u>\$ 395,644.64</u>
Less provisions for uncollectible accounts, adjustments, and allowances				<u>29,772.61</u> <u>\$ 365,872.03</u>
Other operating revenue:				
Cafeteria		\$ 6,928.87		
Gift shop		-0-		
Vending		668.45		
Other		<u>1,411.45</u>		<u>9,008.77</u>
				<u>\$ 374,880.80</u>

OPERATING EXPENSES
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Period Ended December 31, 1966

	<u>Salaries and Wages</u>	<u>Supplies</u>	<u>Other Con- tractual Services</u>	<u>Total</u>
Administration	\$ 70,163.98	\$ 2,876.19	\$ 8,362.71	\$ 81,402.88
Gen. Ins.	-0-	-0-	20,551.73	20,551.73
Postage	-0-	-0-	5,298.35	5,298.35
Legal	-0-	-0-	3,853.43	3,853.43
Auditing	-0-	-0-	8,711.37	8,711.37
Employee Benefits:				
Emp. Ins.	-0-	-0-	25,721.20	25,721.20
Taxes	-0-	-0-	58,824.87	58,824.87
Personnel	26,671.05	547.48	11,199.66	38,418.19
Purchasing	26,841.26	1,904.51	759.59	29,505.36
Public Relations	23,596.59	612.92	2,208.44	26,417.95
Telephone	21,743.05	277.32	36,005.38	58,025.75
Accounting	14,271.75	1,399.86	247.81	15,919.42
Data Processing	24,649.90	7,193.35	29,726.33	61,569.58
Accounts Rec.	44,039.78	2,032.44	1,048.54	47,120.76
Admitting	13,723.01	704.54	90.00	14,517.55
Med. Records	28,085.28	4,317.90	2,639.20	35,042.38
Dietary	90,100.03	103,662.68	47,641.90	241,404.61
Housekeeping	42,704.33	10,018.70	1,432.20	54,155.23
Plant	14,130.10	1,017.93	79,069.09	94,217.12
Operations	46,631.72	7,072.28	-0-	53,704.00
Maintenance	35,855.87	17,462.26	600.00	53,918.13
Security	-0-	22.58	33,446.24	33,468.82
Elevator	-0-	-0-	339.47	339.47
Dispatch (SPD)	32,808.84	73,023.40	471.01	106,303.25
Receiving	8,940.98	208.03	16.49	9,165.50
Stores	79,133.49	9,971.80	583.10	89,688.39
Processing	-0-	10,664.34	122.75	10,787.09
Distribution	-0-	5,281.09	-0-	5,281.09
Print Shop	4,064.22	7,258.78	3,492.98	14,815.98
Mail	985.60	69.80	82.02	1,137.42
Laundry	-0-	-0-	39,814.85	39,814.85
Textiles	-0-	4,256.42	-0-	4,256.42
Admin.-Med.	16,433.32	189.68	302.90	16,925.90
House Phys.	54,260.36	2.11	2,441.35	56,703.82
Phys. for E&O/P	-0-	1,188.32	298.18	1,486.50
Radiology	15,190.35	21,156.29	68,045.07	104,391.71
Rad.-D/T	36,762.12	2,786.67	-0-	39,548.79
Isotope Lab.	5,407.20	8,883.24	326.14	14,616.58
EKG	5,872.85	1,512.93	12,948.28	20,334.06
Lab.	75,386.49	47,770.80	64,689.33	187,846.62

OPERATING EXPENSES - CONTINUED
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Period Ended December 31, 1966

	<u>Salaries and Wages</u>	<u>Supplies</u>	<u>Other Con- tractual Services</u>	<u>Total</u>
Social Service	\$ 793.73	\$ 25.47	\$ -0-	\$ 819.20
Blood	-0-	1,165.85	612.00	1,777.85
Inhalation Ther.	8,780.60	4,018.50	108.00	12,907.10
Pharmacy	25,152.11	46,123.57	42.40	71,318.08
Anesthesia	3,452.24	11,533.43	-0-	14,985.67
Emergency	25,571.62	2,652.52	54,599.00	82,823.14
Nursing - Admin.	58,142.57	684.29	713.25	59,540.11
Orientation	17,481.33	-0-	-0-	17,481.33
Surgery	61,868.58	20,753.48	112.78	82,734.84
Recovery/Surg.	11,381.21	33.32	-0-	11,414.53
Pediatrics	10,449.02	98.29	-0-	10,547.31
Intensive Care	7,437.44	1,283.10	34.56	8,755.10
Matern. Adm.	4,739.94	54.13	-0-	4,794.07
Matern. Flr.	12,223.60	787.28	192.50	13,203.38
Delivery	11,152.64	2,744.14	-0-	13,896.78
Gynecology	-0-	27.45	25.00	52.45
Nursery	10,218.80	-0-	306.05	10,524.85
Nursing:				79.50
4th flr.	-0-	79.50	-0-	79.50
5th flr.	103,896.01	784.65	-0-	104,680.66
6th flr.	88,389.76	421.53	542.16	89,353.45
7th flr.	-0-	-0-	-0-	-0-
8th flr.	109,342.76	1,074.92	-0-	110,417.68
Unit Mgmt.	99,082.49	3,349.96	750.00	103,182.45
Foundation	24,781.46	1,548.41	12,574.27	38,904.14
	<u>\$1,552,791.43</u>	<u>\$454,590.43</u>	<u>\$642,023.93</u>	<u>\$2,649,405.79</u>
Less:				
Capitalized pre- opening costs	(90,972.25)	(8,426.96)	(19,113.28)	(118,517.49)
	<u>\$1,461,819.18</u>	<u>\$446,163.47</u>	<u>\$622,905.65</u>	<u>\$2,530,888.30</u>

OPERATING EXPENSES
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Month of December, 1966

	<u>Salaries and Wages</u>	<u>Supplies</u>	<u>Other Con- tractual Services</u>	<u>Total</u>
Administration	\$ 4,089.72	\$ 43.44	\$ 1,528.38	\$ 5,661.54
Gen'l Ins.	-0-	-0-	2,949.98	2,949.98
Postage	-0-	-0-	762.08	762.08
Legal	-0-	-0-	350.00	350.00
Auditing	-0-	-0-	1,000.00	1,000.00
Emp. Benefits:				
Emp. Ins.	-0-	-0-	4,066.11	4,066.11
Taxes	-0-	-0-	6,682.24	6,682.24
Personnel	2,043.82	55.89	1,372.90	3,472.61
Purchasing	3,214.23	219.14	-0-	3,433.37
Publ. Relations	2,538.00	99.99	251.19	2,889.18
Telephone	2,146.59	4.12	4,360.91	6,511.62
Accounting	1,846.47	76.88	5.92	1,929.27
Data Processing	2,774.26	870.77	3,365.40	7,010.43
Acc'ts Rec.	5,070.92	651.57	136.27	5,858.76
Admitting	2,371.89	-0-	-0-	2,371.89
Med. Records	3,782.83	85.65	1,500.00	5,368.48
Dietary	10,723.11	10,427.09	4,779.76	25,929.96
Housekeeping	4,154.39	1,692.98	300.00	6,147.37
Plant	2,688.57	85.12	11,142.69	13,916.38
Operation	4,504.58	-0-	-0-	4,504.58
Maintenance	4,997.69	3,519.26	-0-	8,516.95
Security	-0-	18.54	2,806.18	2,824.72
Dispatch (SPD)	4,260.38	16,580.14	-0-	20,840.52
Receiving	-0-	-0-	-0-	-0-
Stores	8,977.39	5,615.85	-0-	14,593.24
Processing	-0-	28.02	41.85	69.87
Print Shop	107.20	1,072.31	2,038.83	3,218.34
Mail	241.38	-0-	25.04	266.42
Laundry	-0-	-0-	4,307.45	4,307.45
Admn. Md.	926.46	43.27	100.00	1,069.73
House Phys.	9,957.93	-0-	100.00	10,057.93
Phys. for E&O/P	-0-	57.88	224.00	281.88
Radiology	2,858.36	2,929.38	10,540.85	16,328.59
Rad.D/T	4,254.79	2,161.76	-0-	6,416.55
Isotope Lab.	759.89	2,050.43	-0-	2,810.32
EKG	923.52	214.33	2,244.90	3,382.75
Lab.	10,983.86	5,734.97	12,210.36	28,929.19

OPERATING EXPENSES - CONTINUED
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Month of December, 1966

	<u>Salaries and Wages</u>	<u>Supplies</u>	<u>Other Con- tractual Services</u>	<u>Total</u>
Social Service	\$ 310.82	\$ 4.80	\$ -0-	\$ 315.62
Blood	-0-	707.50	-0-	707.50
Inhalation Ther.	1,336.25	1,283.47	-0-	2,619.72
Pharmacy	2,724.49	(3,644.12)	16.40	(903.23)
Anesthesia	1,764.55	8,298.26	-0-	10,062.81
Emergency	2,810.76	1,289.93	6,144.00	10,244.69
Nursing Admn.	5,706.67	12.97	-0-	5,719.64
Orientation	7,590.62	-0-	-0-	7,590.62
Surgery	5,968.89	4,493.09	2.50	10,464.48
Recovery/Surg.	3,105.38	-0-	-0-	3,105.38
Pediatrics	3,384.79	62.25	-0-	3,447.04
Intensive Care	4,060.36	263.56	-0-	4,323.92
Matern. Admn.	978.02	34.78	-0-	1,012.80
Matern. Flr.	3,269.19	504.96	-0-	3,774.15
Delivery	4,212.83	967.94	-0-	5,180.77
Nursery	3,032.73	-0-	306.05	3,338.78
Nursing:				
4th flr.	-0-	79.50	-0-	79.50
5th flr.	13,501.01	563.48	-0-	14,064.49
6th flr.	10,334.16	311.41	-0-	10,645.57
7th flr.	-0-	-0-	-0-	-0-
8th flr.	12,672.79	802.46	-0-	13,475.25
Unit Mgmt.	13,302.42	918.79	-0-	14,221.21
Foundation	1,644.35	18.89	708.53	2,371.77
	<u>\$202,909.31</u>	<u>\$ 71,312.70</u>	<u>\$ 86,370.77</u>	<u>\$360,592.78</u>

ANALYSIS OF GENERAL FUND BALANCE -
THE MORRIS CAFRITZ MEMORIAL HOSPITAL

Period from April 18, 1955 (Date of Incorporation) to December 31, 1966

Additions:

Grant from Prince George's County, Maryland	\$	649,527.52
Grant from Hill-Burton Act		1,294,946.00
Grant from District of Columbia Hospital Center Act		3,375,000.00
Grant from United States of America-land		1,175,000.00
Excess of revenue over expenses before opening		1,173,056.78
Excess of expenses over revenue after opening		(512,051.65)
Provision for depreciation		<u>353,122.16</u>
	\$	7,508,600.81

Deductions:

Depreciation funded	\$ 353,122.16	
Purchase of plant assets	<u>11,307,919.63</u>	<u>11,661,041.79</u>

GENERAL FUND BALANCE

(\$4,152,440.98)

STATISTICS
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Month of December and Year to Date

	In Patient		Out Patient		Emergency	
	<u>Dec.</u>	<u>Year</u>	<u>Dec.</u>	<u>Year</u>	<u>Dec.</u>	<u>Year</u>
Patient Days (Census):						
Medical-Surgical	4533	32609				
Obstetric	546	1660				
Pediatric	261	552				
Intensive Care	134	293				
Nursery	515	1636				
Admissions:						
Medical-Surgical	512	4213				
Obstetric	157	471				
Pediatric	60	133				
Intensive Care	23	38				
Nursery	148	451				
Discharges:						
Medical-Surgical	566	4080				
Obstetric	155	455				
Pediatric	72	145				
Intensive Care	12	16				
Nursery	145	434				
Occasions of Service:						
Operating Room	365	2627	24	184	1	42
Recovery Room	321	2203	-	-	-	-
Delivery Room	141	444	-	-	-	-
Emergency Room	181	846	7	21	1789	11853
Anesthesia	507	3022	-	-	-	1
Oxygen	580	3404	-	-	7	33
Radiology	1547	8655	230	1151	571	3872
Isotope	97	534	13	52	-	-
Laboratory	8081	42803	219	973	188	1009
Electrocardiography	444	2143	8	39	24	134
Central Supply	5490	29584	7	17	565	4498
Intravenous Therapy	1269	7235	4	10	5	64
Pharmacy	7708	44225	4	8	849	5919

ANALYSIS OF PLEDGES
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
 December 31, 1956

	\$10-59	\$60-119	\$120-299	\$300-999	\$1,000-over	Total
1966 No. of Pledges	9	16	15	19	30	89
Amt. Receivable	\$205	\$668	\$1820	\$5523	\$138936	\$147152
1965 No.	10	32	6	8	7	63
Amt.	\$185	\$2138	\$384	\$2170	\$7237	\$12114
1964 No.	24	48	3	5	6	86
Amt.	\$421	\$3296	\$340	\$1153	\$16621	\$21831
1963 No.		4		1	2	7
Amt.		\$204		\$100	\$5750	\$6054
1962 No.		5	1		2	8
Amt.		\$185	\$80		\$6662	\$6927
1961 No.		2	1	1	3	7
Amt.		\$75	\$70	\$410	\$11140	\$11695
1960 No.	11	93	26	5	2	137
Amt.	\$160	\$2966	\$2042	\$773	\$5750	\$11691
1959 No.		77	11	2	4	94
Amt.		\$2392	\$670	\$405	\$2650	\$6117
1958 No.		2		9	12	23
Amt.		\$69		\$1950	\$16018	\$18037
Total No. of Pledges	54	279	63	50	68	514
Amt. Receivable	\$971	\$11993	\$5406	\$12484	\$210764	\$241618

Summary of Pledges
 Balance - November 30, 1966 \$362,838.70
 New 25,578.26
 Less - Payments (28,014.23)
 - Write-offs (118,783.85)
 Balance - December 31, 1966 \$241,618.88

JA 41

SOURCE AND APPLICATION OF FUNDS
THE MORRIS CAFRITZ MEMORIAL HOSPITAL
Month of December, 1966

Source of Funds

Interest and dividends	\$ 4,779.53
Pledges	28,014.23
Operating revenue	350,150.24
Bond proceeds	83,987.17
Construction settlement	<u>14,773.00</u>
 Total Source of Funds	 \$ <u>481,704.17</u>

Application of Funds

Equipment payments	\$ 116,666.40
Salaries and wages	223,365.47
Payroll taxes	18,149.00
Non-payroll	<u>85,857.11</u>
 Total Application of Funds	 \$ <u>444,037.98</u>
 Cash Balance at November 30, 1966	 \$ 114,901.99
Cash Receipts	481,704.17
Cash Disbursements	(444,037.98)
Cash Balance at December 31, 1966	\$ <u>152,568.18</u>



**U. S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE**

DISTRICT DIRECTOR

Audit Division
P.O. Box 536
Baltimore, Maryland 21203

JUL 11 1966

IN REPLY REFER TO

Form L-178

210:10

The Greater Southeast Community
Hospital Foundation, Inc.
1310 Southern Avenue, S.E.
Washington, D. C. 20032

PURPOSE	
Determination of Exemption	
ADDRESS INQUIRIES & FILE RETURNS WITH DISTRICT DIRECTOR OF INTERNAL REVENUE	
Baltimore, Maryland	
FORM 990-A RE- QUIRED	ACCOUNTING PERIOD ENDING
☒ YES ☐ NO	December 31

Gentlemen:

On the basis of your stated purposes and the understanding that your operations will continue as evidenced to date or will conform to those proposed in your ruling application, we have concluded that you are exempt from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code. Any changes in operation from those described, or in your character or purposes, must be reported immediately to your District Director for consideration of their effect upon your exempt status. You must also report any change in your name or address.

You are not required to file Federal income tax returns so long as you retain an exempt status, unless you are subject to the tax on unrelated business income imposed by section 511 of the Code, in which event you are required to file Form 990-T. Our determination as to your liability for filing the annual information return, Form 990-A, is set forth above. That return, if required, must be filed on or before the 15th day of the fifth month after the close of your annual accounting period indicated above.

Contributions made to you are deductible by donors as provided in section 170 of the Code. Bequests, legacies, devises, transfers or gifts to or for your use are deductible for Federal estate and gift tax purposes under the provisions of section 2055, 2106 and 2522 of the Code.

You are not liable for the taxes imposed under the Federal Insurance Contributions Act (social security taxes) unless you file a waiver of exemption certificate as provided in such act. You are not liable for the tax imposed under the Federal Unemployment Tax Act. Inquiries about the waiver of exemption certificate for social security taxes should be addressed to this office, as should any questions concerning excise, employment or other Federal taxes.

This is a determination letter.

Very truly yours,

Irving Machig

Irving Machig

District Director

This determination supersedes our tentative ruling dated November 28, 1956.

cc: C. Richard Boyda, Esquire
1707 H Street, N.W.
Washington, D. C. 20006

[Exhibit E]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE
WASHINGTON, D.C. 20004

June 3, 1964

SUBJECT: Exemption from Real Estate Taxes
Department of General Administration

ORDERED:

That under the provisions of Public Law 846 — 77th Congress, approved December 2d, 1942, Parcel 230/65, assessed to Greater Southeast Community Hospital Foundation, Inc., be noted on the records of the Property Tax Division of the Finance Office, as exempt from real estate taxation, effective July 1, 1964.

By order of the Board of Commissioners, D.C.

/s/ G. M. Thornett
Secretary to the Board

Offical copy furnished:

Finance Office (5) (5)

Property Tax Div.

Mr. G. T. Stafford, Administrator

The Greater S. E. Community Hospital Building Fund

1343 Good Hope Road, S.E.

Washington, D. C. 20020

[Exhibit F]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL ADMINISTRATION

March 9, 1967

The Greater Southeast Community
Hospital Foundation, Inc.
1310 Southern Avenue, S.E.
Washington, D.C. 20032

Attention: Administrator

Gentlemen:

We have examined your application for an exempt status under the provisions of the District of Columbia Income and Franchise Tax Act of 1947, as amended, and it is our opinion that your organization qualifies for exemption under Title II, Section 1 (d), of the Act.

Accordingly, you will not be required to file franchise tax returns or obtain the annual franchise license unless you change the character of your organization, the purposes for which you were organized, or your method of operation. Any such change should be reported immediately to this office in order that the effect upon your exempt status may be considered.

Your attention is called to the provisions of Title II, Section 1 (d), of the District law under which your exemption will be revoked unless you operate exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, to a substantial extent within the District. Such reference to operations within the District does not include those activities confined solely to the solicitation of funds, or to the situs of its organizational adjuncts, but means the actual dispensing within the District to a substantial extent of the religious, charitable, educational or the other benefits which the organization affords. Also,

JA 46

no part of your net earnings may inure to the benefit of any private individual or shareholder, and no part of your activities is carrying on propaganda, or otherwise attempting to influence legislation.

You are requested to submit a statement of your actual method of operations both within and outside the District together with a classified statement of receipts, expenditures and disbursements for each taxable year, and a complete statement of the assets and liabilities as of the end of each taxable year. This information must be submitted annually on or before the fifteenth day of the fourth month following the close of the taxable year.

It is requested that you submit promptly copies of any correspondence received in the future from the Internal Revenue Service which changes, renews, clarifies, or proposes to change, renew, or clarify the organization's exempt status for Federal income tax purposes.

Very truly yours,

/s/ John R. Kissinger
Supervisory Tax Auditor
Income and Sales Tax Section

JA 47

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT UNEMPLOYMENT COMPENSATION BOARD

EMPLOYMENT SECURITY BUILDING
SIXTH AND PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D. C. 20001



ALTER N. TOBRINER, CHAIRMAN
JOHN B. DUNCAN
M. DUKE
C. TURNER
LEO LYNCH

TEL. 393-7915

LOUIS MACKALL, DIRECTOR

March 21, 1967

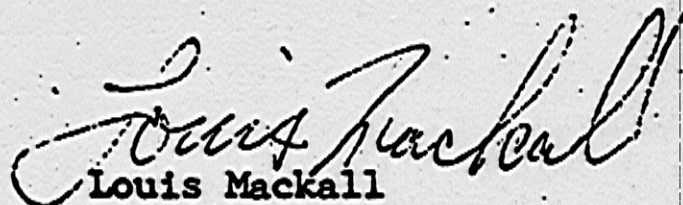
Louis P. Robbins, Esq.
Law Offices of Grossberg,
Yochelson, Brill & Fox
1707 H Street, N.W.
Washington, D.C. 20006

Dear Mr. Robbins:

The District Unemployment Compensation Board on March 21, 1967 ruled that the Greater Southeast Community Hospital Foundation, Inc., comes within the intent and meaning of Section 1(b)(5)(G) of the District of Columbia Unemployment Compensation Act through March 31, 1962; however, it does not come within the intent and meaning of Section 1(b)(5)(G) of the District of Columbia Unemployment Compensation Act, as amended, from April 1, 1962 forward. Therefore, it will be necessary to submit reports and pay contributions to this Board as of April 1, 1962.

A copy of the said ruling is enclosed.

Very truly yours,


Louis Mackall

Enclosure

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT UNEMPLOYMENT COMPENSATION BOARD
EMPLOYMENT SECURITY BUILDING
SIXTH AND PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20001

To: District Unemployment Compensation Board
In Re: The Greater Southeast Community Hospital
Foundation, Inc., -- Request for a ruling
on its status under the District of Columbia
Unemployment Compensation Act

Report: From the information and data submitted, it appears that this organization is incorporated under the laws of the District of Columbia and is the owner and operator of the Morris Cafritz Memorial Hospital of this City. Its purposes as set out in its Certificate of Incorporation are as follows:

"Fourth: The particular business and objects of said corporation shall be:

*** (c) To carry on any educational training activities related to the care and prevention of sickness, injury and disease or the promotion of health, either alone or in conjunction with other hospital or health institutions or organizations, as may be justified by the facilities, personnel, funds or other requirements that are or can be made available:

Fifth: This corporation is organized exclusively for charitable, health, medical, scientific and educational purposes as a not-for-profit corporation serving the general community; it shall have no capital stock; ***"

It further appears that none of the net income inures to the benefit of any member, Trustee, officer or individual.

This organization claims exemption under the provisions of Section 1(b)(5)(G) of the Act, which subsequent to March 21, 1962 reads as follows:

"(G) service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious or charitable purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;"

The provisions of the said section prior to April 1, 1962, read as follows:

"(G) service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;"

This organization has been exempted from the payment of various Federal taxes under the provisions of Section 501(c)(3) of the Internal Revenue Code which reads somewhat similar to Section 1(b)(5)(g) of the Act prior to April 1, 1962. The Internal Revenue Service ruled that the Foundation was organized and operated exclusively for educational and charitable purposes.

From an analysis of the information and data submitted it appears that the Foundation is operated for charitable purposes, but, in addition to that, it is also operated for scientific, educational, health and medical purposes as well. For this reason it cannot be said that the Foundation is exclusively charitable. Accordingly, it is my opinion that this organization should not be required to file reports for the periods prior to April 1, 1962, but should be required to file reports and pay contributions thereon for all periods commencing with April 1, 1962.

JA 50

RECOMMENDATION:

That this Foundation be so advised through its attorney, Louis
P. Robbins, Esq.

/s/ James M. Portray, Jr.
General Counsel

APPROVED BY THE BOARD

/s/ Walter N. Tobriner
Chairman

Date 3-21-67

[Exhibit H]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT UNEMPLOYMENT COMPENSATION BOARD
EMPLOYMENT SECURITY BUILDING
SIXTH AND PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D.C. 20001

May 9, 1967

Louis P. Robbins, Esquire
Grossberg, Yochelson, Brill & Fox
1707 H Street, N.W.
Washington, D.C. 20006

In Re: Johnsie B. Withrow
Appeal No. 19,259-UI
S. S. No. 579-20-4569

Dear Mr. Robbins:

The District Unemployment Compensation Board considered your appeal of May 1, 1967, in the above case, and affirmed the decision of the Appeals Examiner dated April 24, 1967. A copy of the Board's decision is enclosed.

This decision will become final thirty days from the date of this letter unless an appeal is made to the United States District Court for the District of Columbia before the expiration of that time.

Sincerely yours,

/s/ Louis Mackall

Encl.

Copy to: Claimant

Morris Cafritz Memorial Hospital
1310 Southern Avenue, S.E.
Washington, D.C.

JA 52

In Re: Claim of
JOHNSIE B. WITHROW

Social Security No. 579-20-4569
Appeal Number 19,259 - UI

RESOLVED: That the decision of the Appeals Examiner dated April 24, 1967 in the above entitled case be affirmed. The Board having fully considered the facts as shown by the data and statements contained in the record of said claim is of the opinion that no further hearing of the appeal is justified.

APPROVED BY THE BOARD

/s/ Robert E. Mathe
Acting Chairman

Date May 9, 1967

cc: employer
claimant
Legal
Appeals
Resolutions

[Exhibit I]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT UNEMPLOYMENT COMPENSATION BOARD
EMPLOYMENT SECURITY BUILDING
SIXTH AND PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20001

May 9, 1967

Louis P. Robbins, Esquire
Grossberg, Yochelson, Brill & Fox
1707 H Street, N. W.
Washington, D.C. 20006

In Re: Emma Lee Coleman
Appeal No. 19,078-UI
S.S. No. 578-48-3299

Dear Mr. Robbins:

The District Unemployment Compensation Board considered your appeal of May 1, 1967, in the above entitled case, and affirmed the decision of the Appeals Examiner dated April 24, 1967. A copy of the Board's decision is enclosed.

This decision will become final thirty days from the date of this letter unless an appeal is made to the United States District Court for the District of Columbia before the expiration of that time.

Sincerely yours,

/s/ Louis Mackall

Encl.

Copy to: Claimant

Morris Cafritz Memorial Hospital
1310 Southern Avenue, S.E.
Washington, D. C.

In Re: Claim of
EMMA LEE COLEMAN

Social Security No. 578-48-3299
Appeal Number 19,078 - UI

RESOLVED: That the decision of the Appeals Examiner dated April 24, 1967 in the above entitled case be affirmed. The Board having fully considered the facts as shown by the data and statements contained in the record of said claim is of the opinion that no further hearing of the appeal is justified.

APPROVED BY THE BOARD

/s/ Robert E. Mathe
Acting Chairman

Date May 9, 1967

cc: employer
claimant
Legal
Appeals
Resolutions

ANSWER OF DEFENDANT
DISTRICT UNEMPLOYMENT COMPENSATION BOARD

Comes now the Defendant the District Unemployment Compensation Board by and through its Attorney, and answers the complaint as follows:

First Defense

The complaint fails to state a claim upon which relief can be granted.

Second Defense

Answering specifically the numbered paragraphs of the complaint, this defendant avers:

1. This defendant admits the allegations of this paragraph except it denies that plaintiff is exclusively a charitable organization.
2. The defendant admits the allegations of this paragraph.
3. This defendant admits the allegations of this paragraph.
4. This defendant admits the allegations of this paragraph.
5. This defendant admits the allegations of this paragraph.
6. This defendant denies the allegations of this paragraph.
7. This defendant admits the allegations of this paragraph.

James M. Portray, Jr.
F. G. Gordon, Jr.
George A. Ross

By /s/ James M. Portray
Attorneys for Defendant

[Certificate of Service]

INTERROGATORIES TO DEFENDANT

The following Interrogatories are propounded to you pursuant to the provisions of Rule 33 of the Federal Rules of Civil Procedure and the applicable rules of this Court. You are required to answer these Interrogatories fully and separately in writing under oath and to serve a copy of your answers upon counsel for plaintiff, GREATER SOUTHEAST COMMUNITY HOSPITAL FOUNDATION, INC. within fifteen (15) days from the date of service hereof upon you or upon such other time as the Court may fix or the parties may agree upon. These Interrogatories are to be deemed continuing in nature and you are required to furnish to counsel for plaintiff any additional information concerning answers thereto coming to your knowledge or possession after the filing of the required answers:

1. State the name and official capacity of the person answering these Interrogatories.

2. List all non-governmental hospitals operating in the District of Columbia and state whether or not each of said hospitals is registered with the District Unemployment Compensation Board and whether or not said hospitals are exempt from the coverage of the District Unemployment Compensation Act.

3. If any of the said hospitals are exempt, state the basis of such exemption and whether or not there has been a formal ruling by the District Unemployment Compensation Board to that effect.

4. If you have no objection to doing so without a motion to produce under Rule 34 of the Federal Rules of Civil Procedure, annex all rulings of the Board exempting any hospital from coverage of the act to these Interrogatories.

5. If defendant objects to annexing the documents referred to in Interrogatory Number 4 above, please state where and when said documents will be available for inspection and copying.

Grossberg, Yochelson, Brill & Fox

By /s/ Louis P. Robbins
Attorneys for Plaintiff

[Certificate of Service]

ANSWERS TO INTERROGATORIES

DISTRICT OF COLUMBIA, SS:

1. Frank G. Preston, Assistant Director
2. The following hospitals are located in the District of Columbia and registered with the District Unemployment Compensation Board as of the dates shown:

Morris Cafritz Memorial Hospital	4-1-62
Doctors Hospital	3-1-39
George Washington University (George Washington Hospital)	1-1-62
Georgetown University (Georgetown Hospital)	1-1-62
Sibley Memorial Hospital	1-1-62
Washington Hospital Center	1-1-62

The hospitals exempt from coverage are the following:

Casualty Hospital
Childrens Convalescent Hospital
(formerly Childrens Country Home)
Childrens Hospital
Columbia Hospital for Women
Hadley Memorial Hospital
Providence Hospital

3. Exemptions from coverage were made by formal rulings with the sole exception of Providence Hospital.
4. Copies of exempt rulings are attached hereto.
5. The documents are attached without objection.

/s/ Frank G. Preston

[Jurat]

[Certificate of Service]

Government of the District of Columbia
OFFICE OF THE CORPORATION COUNSEL

JUN 19 1937

732
Callie
HOENER

TO: THE DISTRICT UNEMPLOYMENT COMPENSATION BOARD

IN RE: Request for ruling on the status of the Children's Country Home under the District of Columbia Unemployment Compensation Act.

REPORT: The above-named Home was incorporated in 1888 under the laws of the District of Columbia.

It appears from the Certificate of Incorporation that "The particular business and objects of said Society shall be to erect and maintain a house, or houses in the District of Columbia, where the poor and deserving may be cared for at the expense of said Society, and at the will of the Trustees and Managers of the said Society".

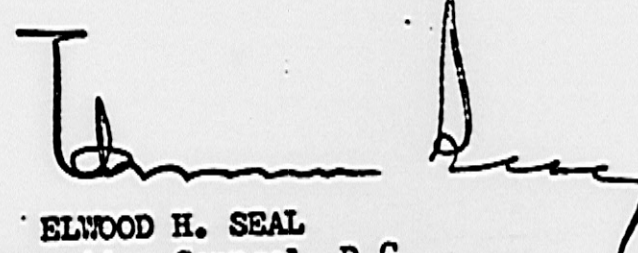
Section 1(b) (7) of the District of Columbia Unemployment Compensation Act, as amended, exempts the following:

"(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual."

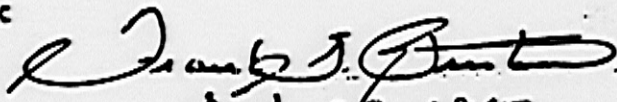
It is the opinion of this office that the Children's Country Home is within the intent and scope of Section 1(b) (7) of the Act, as amended, and is, therefore, entitled to the exemption provided therein.

RECOMMENDATION:

It is recommended that the Home and its Superintendent be so advised.


ELWOOD H. SEAL
Corporation Counsel, D.C.

JLB:hk


Sept 23, 1967

DISTRICT UNEMPLOYMENT COMPENSATION BOARD
WASHINGTON, D. C.

ELVIN C. HAZEN, CHAIRMAN
 DAVID MCCOACH, JR.
 J. J. CALLAHAN
 JOHN LOCHER

JOHN A. MARSHALL, DIRECTOR

November 10, 1958

TO: The District Unemployment Compensation Board

IN RE: Request for ruling on the status of the following
 under the District of Columbia Unemployment Com-
 pensation Act.

1. Central Admitting Bureau for Hospitals
2. Columbia Hospital for Women
3. Eastern Dispensary and Casualty Hospital

REPORT: From the data and statements submitted, it appears that all of the above-named organizations are not operated for profit and are charitable institutions, and it appears that they all come within the scope and intent of Paragraph 7, Section 1(b) of the Act, as amended. Therefore, it is not necessary for them to make reports and pay contributions as provided in the Act. However, should any of the aforesaid change in the form of organization or method of operation, it must immediately report the same to the Board so that the effect thereof may be determined. (Central Dispensary and Emergency Hospital, Corporation Counsel Opinion No. 112)

RECOMMENDATION:

That the above-named organizations and their officers be so advised.

Louis Mackall, Jr.
 Louis Mackall, Jr.

A. Callahan
 Approved by the Board

Date: 11/15/58

lmjr/vs

Date: Sept. 20, 1967

DISTRICT UNEMPLOYMENT COMPENSATION BOARD

WASHINGTON, D. C.

MELVIN C. HAZEN, CHAIRMAN
GEORGE E. ALLEN
DAN I. SULTAN
D. J. CALLAHAN
JOHN LOCHER

August 5, 1938

JOHN A. MARSHALL, DIRECTOR

TO: The District Unemployment Compensation Board.

IN RE: Request for ruling on the status of the following under
the District of Columbia Unemployment Compensation Act:

1. Children's Hospital
2. Garfield Memorial Hospital
3. Sibley Memorial Hospital

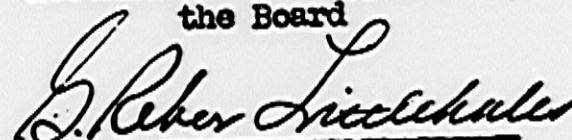
REPORT: From the data and statements submitted it appears that each of the above named hospitals come within the scope and intent of Paragraph 7, Section 1 (b) of the Act, as amended, and are entitled to exemption thereunder. Therefore, it is not necessary for them to make the reports and pay the contributions as provided in the Act. However, should any of the aforesaid change the form of its organization or method of operation, it must immediately report the same to the Board so that the effect thereof upon its present status may be determined.

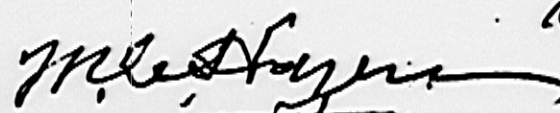
RECOMMENDATION:

That the above mentioned organizations and their proper officers be so advised.


GORDON L. EAKLE

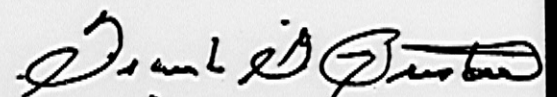
Recommended for Approval of
the Board

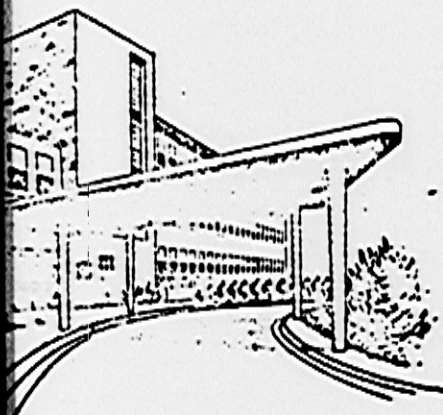

G. REBER LITTLEHALES


Approved by the Board.

8/12/38

I certify this to be a true and complete copy


Date Sept 20 1938



Hadley Memorial Hospital

4601 NICHOLS AVE., S.W. • WASHINGTON 24, D.C. • JOHNSON 2-9800

April 1, 1962

District Unemployment Compensation Board
Government of the District of Columbia
451 Pennsylvania Avenue, N. W.
Washington 1, D. C.

Dear Sirs:

This is to certify that the Hadley Memorial Hospital is owned and operated by the Columbia Union Conference of Seventh-day Adventists, a non-profit organization. No part of the net income inures to the benefit of any private shareholder or individual.

The Hadley Memorial Hospital is exempt from Income Tax because it is owned and operated by the Seventh-Adventist denomination. The Cumulative List, revised October 31, 1954, shows the following exemption on page 326:

Seventh-day Adventists in the United States and institutions thereof.

Sincerely yours,

H. A. Rudisaile
Administrator

HAR:fo

I certify this to be a true and complete copy.

Date Sept. 20, 1967

APR 4 1962

RECEIVED

Hall Dept.

DIST. UNEMP. COMP. DIV.

POST MARKED

APR 2 1962

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT UNEMPLOYMENT COMPENSATION BOARD
451 PENNSYLVANIA AVENUE, N. W.
WASHINGTON 1, D. C.

WALTER N. TOBRINER, CHAIRMAN
FREDERICK J. CLARKE
JOHN D. DUNCAN
J. C. TURNER
HARRY L. GRUBBS, JR.



TEL. DI 7-7812

EDGAR L. LICKY, DIRECTOR

TO: District Unemployment Compensation Board

IN RE: Columbia Union Conference Association of
Seventh-Day Adventists--Request for a ruling
on its status under the District of Columbia
Unemployment Compensation Act.

REPORT: From the information and data submitted it appears that the above named organization was incorporated in the District of Columbia. Its objects and purposes as set out in its Certificate of Incorporation are as follows:

"The particular business and objects for which this Association is formed are for the purpose of diffusing moral and religious knowledge throughout the entire world by means of churches, organizations, publishing houses, medical or health institutions, educational institutions, publications, missionary agencies, and all other instrumentalities and methods appropriate and available for and tending to the advancement of such ends and aims, and to that end to receive loans, gifts, and deposits of money; to issue notes; to grant annuities; to make loans; to acquire, possess, and hold titles to real, personal, and mixed estates in this or foreign countries, either in trust or otherwise, by gifts, bequests, devise, or purchase, and to have power to pledge, incumber, sell and convey the same by such mortgages or other instrument of security or conveyance as may be suitable; it being, however, expressly declared that this Association is not for personal profit or gain to any one, but that all its property and effects must be used and expended in carrying into effect the aims, ends, and objects of its existence."

I certify this to be a true and correct copy

[Signature]
Date... 2/21/1967

The above named corporation claims exemption under the provisions of Section 1 (b)(5)(G) of the Act, as amended,

which reads as follows:

"(G) service performed in the employ of a corporation, community chest, fund or foundation organized and operated exclusively for religious or charitable purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;"

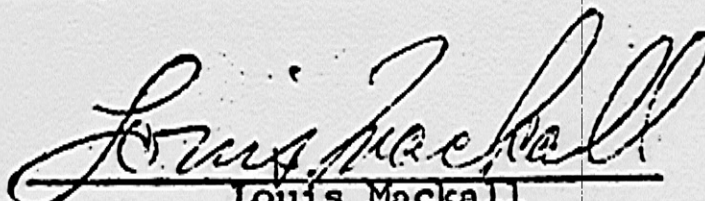
It further appears that none of the net income inures to the benefit of any private shareholder or individual.

This organization was granted exemption from the payment of various Federal taxes under the provisions of Section 101 (6) of the Internal Revenue Code which read substantially the same as Section 1 (b)(5)(G) of the Act prior to its amendment on April 1, 1962.

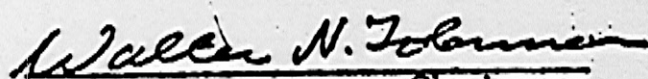
"An analysis of its purposes would appear to be exclusively religious within the meaning of Section 1 (b)(5) (G) of the Act. Its educational purpose would appear to be purely ancillary to its primary religious purpose and would not unclass the organization within the ruling of the United States Court of Appeals for the District of Columbia Circuit in the case of International Reform Federation v. District Unemployment Compensation Board (1943, 131 F. 2d 337, 76 U. S. App. D. C. 282, certiorari denied 63 S. Ct. 324, 317 U.S. 693, 87 L. Ed. 555)". [I am of the opinion that this organization should not be required to file reports and pay contributions thereon to this Board.]

RECOMMENDATION:

That its Administrator, H. A. Rudisaile, be so advised.


Louis Mackall
Attorney

APPROVED BY THE BOARD


Chairman

Date April 24, 1962

LM:aj

INTERROGATORIES TO PLAINTIFF

The following Interrogatories are propounded to you pursuant to the provisions of Rule 33 of the Federal Rules of Civil Procedure and the applicable rules of this Court. You are required to answer these Interrogatories fully and separately in writing under oath and to serve a copy of your answers upon counsel for defendant, DISTRICT UNEMPLOYMENT COMPENSATION BOARD within fifteen (15) days from the date of service hereof upon you or upon such other time as the Court may fix or the parties may agree upon. These Interrogatories are to be deemed continuing in nature and you are required to furnish to counsel for defendant any additional information concerning answers thereto coming to your knowledge or possession after the filing of the required answers:

1. State the name and official capacity of the person answering these Interrogatories.
2. Please state whether the Morris Cafritz Memorial Hospital presently admit patients for regular hospital care who are on public assistance and are unable to pay the scheduled fees for hospitalization.
3. If the Morris Cafritz Memorial Hospital has a charity ward or wards, please state the number of patients currently receiving free treatment.
4. Please explain whether or not Morris Cafritz Memorial Hospital has ever provided an ambulance or taxi cab fare for the transportation of indigent patients to D.C. General Hospital.
5. If the answer to question number 4 is in the affirmative, please give reasons for refusing to admit the patients.
6. If Morris Cafritz Memorial Hospital is currently treating or offering hospitalization to indigents, does the hospital have a con-

tract with the District Department of Public Health for reimbursement for such treatment.

7. If the answer to question number 6 is negative, please explain why the hospital does not have such a contract.

8. Does the hospital have an out-patient clinic for the treatment of the indigent?

9. Please state the current schedule of rates for semi-private and private rooms.

10. Please state whether the hospital participates in any health program for the impoverished; if so, what is the nature of the program.

11. Does the hospital make known to the community that it has facilities for serving the poor?

12. If indigent patients are admitted, please advise if it is done on a quota basis.

/s/ James M. Portray, Jr.
Attorney for the Defendant

[Certificate of Service]

ANSWERS TO INTERROGATORIES

Plaintiff herein in answer to the interrogatories propounded to it by defendant states as follows:

1. George T. Stafford, Administrator, Morris Cafritz Memorial Hospital.

2. Yes.

3. The Morris Cafritz Memorial Hospital has no charity ward or wards. On November 3, 1967, six (6) patients were receiving free treatment.

4 and 5. The hospital has provided ambulance service and taxi cab fare for the transportation of indigent patients to D.C. General Hospital. Such transfers have been made following the provision of emergency care to patients who, in the judgment of the Emergency Room physicians, could be safely transferred. The refusal to admit such patients was made for one or more of the following reasons:

(A) No available beds;

(B) Unavailability of private physicians and of house staff to admit and treat such patients;

(C) The financial circumstances of the hospital are such that free care can be given only to those patients whose medical condition does not permit transfer.

6. The Morris Cafritz Memorial Hospital does not have a contract with the D.C. Department of Public Health for reimbursement for care given D.C. indigent patients.

7. The reasons this hospital does not have such a contract are as follows:

(A) The reimbursement rate offered by the District of Columbia to the hospital and to private attending physicians and the financial circumstances of the hospital;

(B) Unavailability of nursing staff;

(C) Unavailability of house physicians performing functions similar to those performed by an intern and resident staff of physicians; and

(D) Unavailability of adequate emergency room and out-patient space in the hospital.

8. The hospital does not have an out-patient care clinic for the treatment of the indigent.

9. Semi-private accommodations are priced at \$39.00 per day - private accommodations are \$50.00 per day.

10. The Morris Cafritz Memorial Hospital makes available to all patients the services of its Emergency Room. It admits for free care any patient requiring such admission. It further admits patients entered into the hospital by a physician on the staff regardless of that patient's ability to pay.

11. No.

12. No.

George T. Stafford

[Jurat]

[Certificate of Service]

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff acting by and through counsel, respectfully moves the Court to enter, pursuant to Rule 56, Federal Rules of Civil Procedure, a summary judgment in plaintiff's favor declaring plaintiff to be a charitable corporation within the meaning of Section 46-301 (b) (5)(G), D.C. Code 1967 ed., and therefore exempt from the provisions of the District Unemployment Compensation Act, and reversing the decisions dated May 9, 1967, of defendant, District Unemployment Compensation Board, on the basis that plaintiff is a charitable organization. In support of this motion, plaintiff states that there is no genuine issue as to any material fact and that plaintiff is entitled to a judgment as a matter of law, and as reasons therefor states:

1. Plaintiff was incorporated for the purpose of constructing, maintaining, equipping, owning, managing and operating a community hospital in the District of Columbia and, under the pertinent statute and prevailing case law, it is a corporation organized and operated exclusively for charitable purposes. Accordingly, plaintiff is entitled, as a matter of law, to be declared exempt from the pro-

visions of the District Unemployment Compensation Act.

2. Defendant has erroneously determined that plaintiff is not exempt from the provisions of the Act, basing said determination on the finding

"that the Foundation is operated for charitable purposes, but, in addition to that, it is also operated for scientific, educational, health and medical purposes as well."

Such determination is erroneous as a matter of law and cannot be supported.

For the above-stated reasons, all as more fully set forth in the Memorandum of Points and Authorities, attached hereto and incorporated herein, plaintiff prays the Court to grant this motion.

Grossberg, Yochelson, Brill & Fox

By /s/ Louis P. Robbins
Attorneys for Plaintiff

[Certificate of Service]

STATEMENT OF MATERIAL FACTS AS TO
WHICH THERE IS NO DISPUTE

1. Plaintiff was incorporated on or about April 18, 1966, under the provisions of Chapter 6, Title 29, D.C. Code, 1967 ed., for the purpose of constructing, maintaining, equipping, owning, managing, and operating a community hospital in the District of Columbia and to carry out such related activities as are necessarily required for the effective carrying out of such purpose.

2. Since the date of its incorporation, plaintiff has engaged only in activities within the ambit of Paragraph 1 hereinabove, to-wit

ownership, construction, operation and maintenance of the Morris Cafritz Memorial Hospital.

3. Plaintiff is a non-profit charitable corporation and no part of the net income of the corporation inures to the benefit of any private shareholder or individual.

4. The hospital site was acquired at no cost from the Federal Government.

5. Plaintiff received grants in the amounts of \$1,294,946.00 and \$3,375,000.00 under the provisions of the Hill-Burton Act and District of Columbia Hospital Center Acts respectively.

6. Plaintiff received a grant in the amount of \$649,527.52 from Prince George's County, Maryland.

7. Plaintiff, as of November 1, 1967, received \$1,021,890.00 in contributions from the public.

8. Plaintiff has received an Internal Revenue Determination that it is exempt from Federal Income Tax and it has also received from the District of Columbia exemptions from Real Estate Taxes and Income and Franchise Taxes.

9. Defendant's determination that plaintiff is not exempt is based on the following finding made by defendant:

"From an analysis of the information and data submitted it appears that the Foundation is operated for charitable purposes, but, in addition to that, it is also operated for scientific, educational, health and medical purposes as well. For this reason it can not be said that the Foundation is exclusively charitable."

10. The defendant has ruled that the following hospitals in the District of Columbia are exempt from coverage of the Act.

"Casualty Hospital

Childrens Convalescent Hospital

Columbia Hospital for Women

Hadley Memorial Hospital
Providence Hospital"

11. All hospitals are operated for scientific, educational, health and medicinal purposes, as well as for charitable or religious purposes or even, in certain instances, for profit; but the former purposes are merely incidental and secondary to the primary purpose.

Grossberg, Yochelson, Brill & Fox

By /s/ Louis P. Robbins
Attorneys for Plaintiff

CROSS MOTION FOR SUMMARY JUDGMENT
OR, ALTERNATIVELY,
CROSS MOTION FOR JUDGMENT ON THE PLEADINGS

Comes now the defendant, the District Unemployment Compensation Board, by its attorneys and moves for summary judgment in

its favor against the plaintiff on the pleadings. For grounds of this motion defendant says:

1. That there are no triable facts in dispute.
2. That there remains to be determined by the Court only a single question of law.
3. That the ruling of the defendant, the District Unemployment Compensation Board, is supported by facts and is in accordance with the applicable law.
4. For such other grounds as may be called to the attention of the Court at the time of the hearing on this motion.

James M. Portray, Jr.
F. G. Gordon, Jr.
George A. Ross
Attorneys for Defendant

STATEMENT OF MATERIAL FACTS
AS TO WHICH THERE IS NO DISPUTE

The defendant has no disagreement with the plaintiff's Statement of Material Facts in paragraphs 1-2-4-5-6-7-8-9-10.

3. The defendant denies plaintiff's Statement of Material facts in paragraph 3.

11. The defendant denies plaintiff's Statement of Material Facts in paragraph 11.

12. Defendant admits plaintiff filed a formal request to the Board on March 13, 1967 for exemption from the filing of reports and the payment of unemployment contributions.

13. Defendant admits that the District Unemployment Compensation Board ruled the plaintiff did not come within the intent and meaning of Title 46, D.C. Code, Section 301(b)(5)(G) as amended, from April 1, 1962 forward.

14. Defendant has ruled that the following hospitals in the District of Columbia are not exempt from coverage of the Act.

Sibley Memorial Hospital
Washington Hospital Center

/s/ George A. Ross
Attorney for Defendant

OPPOSITION TO CROSS MOTION FOR
SUMMARY JUDGMENT OR, ALTERNATIVELY,
CROSS MOTION FOR JUDGMENT ON THE
PLEADINGS

Comes now the plaintiff, acting by and through counsel, and opposes the cross motion filed herein by the defendant. As grounds for this opposition the plaintiff relies upon its motion for summary judgment previously filed herein and such motion, with its attached statement of material facts as to which there is no dispute and memorandum of points and authorities, is incorporated herein by reference.

Grossberg, Yochelson, Brill & Fox

By Louis P. Robbins
Attorneys for Plaintiff

[Certificate of Service]

ORDER GRANTING SUMMARY JUDGMENT

Upon consideration of the motion of the plaintiff, the Greater Southeast Community Hospital Foundation, Inc. owner and operator for Morris Cafritz Memorial Hospital, for summary judgment and the cross motion of the defendant, District Unemployment Compensation Board, for summary judgment, together with points and authorities, exhibits and evidence on behalf of both motions and after hearing and oral argument thereon in open Court, it is by the Court this day of January 1968,

ADJUDGED, as follows:

1. That the plaintiff's motion for summary judgment herein be and the same is hereby denied.

JA 73

2. That the defendant's cross motion for summary judgment herein be and the same is granted.

Judge

[Certificate of Service]

NOTICE OF APPEAL TO COURT OF APPEALS

Notice is hereby given that the Greater Southeast Community Hospital Foundation, Inc., plaintiff above-named, hereby appeals to the United States Court of Appeals for the District of Columbia from the Order denying its motion for summary judgment and granting the defendant's cross-motion for summary judgment entered in this action on the 31st day of January, 1968.

Grossberg, Yochelson, Brill & Fox

By Louis P. Robbins
Attorneys for Plaintiff

[Certificate of Service]

85

BRIEF FOR APPELLEE
DISTRICT UNEMPLOYMENT COMPENSATION BOARD

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,800

GREATER SOUTHEAST COMMUNITY HOSPITAL FOUNDATION, INC., *Appellant*,
v.
DISTRICT UNEMPLOYMENT COMPENSATION BOARD, *Appellee*.

APPEAL FROM AN ORDER OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

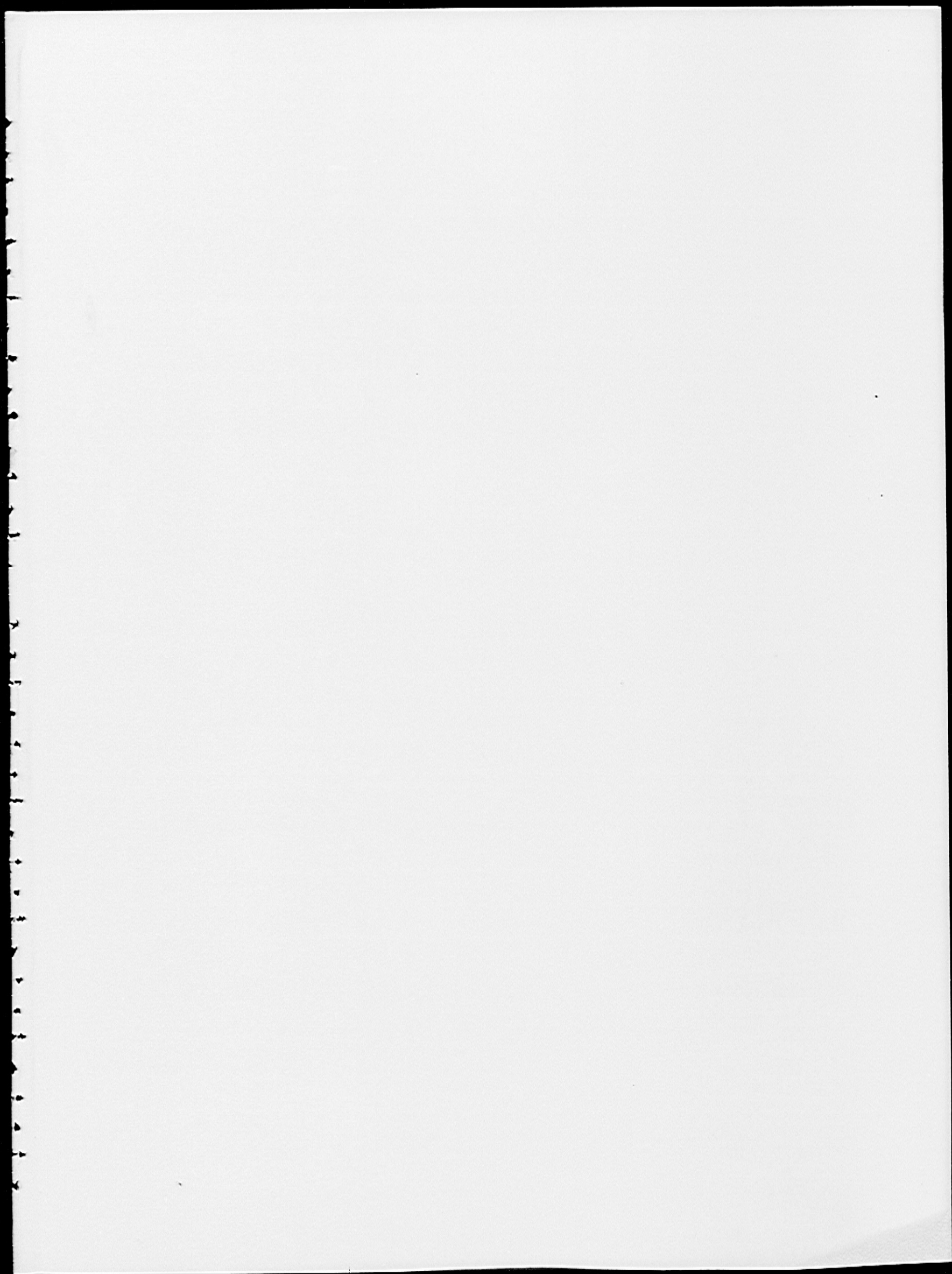
United States Court of Appeals
for the District of Columbia Circuit

FILED JUL 3 1968

Nathan J. Paulson
CLERK

JAMES M. PORTRAY, JR. *OK*
F. G. GORDON, JR. *OK*
GEORGE A. ROSS *OK*
Attorneys for Appellee

District Unemployment Compensation Board
Employment Security Building
Sixth and Pennsylvania Avenue, N.W.
Washington, D. C. 20001



(i)

STATEMENT OF QUESTION PRESENTED

In the opinion of the appellee, the District Unemployment Compensation Board, the sole question to be decided is the narrow one, was the appellee in error when it failed and refused to rule that the appellant was an exclusively charitable organization within the meaning of Title 46, Section 301 (b)(5)(G) of the D.C. Code, 1967 Edition?



(iii)

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CASES CITED

* <u>National Rifle Association v. Young</u> , 77 U.S. App. D.C., 290, 134 F (2d) 524.....	9
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DISTRICT OF COLUMBIA CODE, 1961, CITED

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REPORT OF CONGRESSIONAL COMMITTEES

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*Authorities chiefly relied on.

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,800

GREATER SOUTHEAST COMMUNITY HOSPITAL FOUNDATION, INC.
Appellant

v.

DISTRICT UNEMPLOYMENT COMPENSATION BOARD
Appellee

Appeal from an Order of the United States District
Court for the District of Columbia

BRIEF OF APPELLEE
THE DISTRICT OF COLUMBIA UNEMPLOYMENT
COMPENSATION BOARD

COUNTER - STATEMENT OF THE CASE

By letter dated, December 22, 1966, the appellant, inter alia, made the following request of the appellee for a ruling of its status as an exempt charitable non-profit organization:

"It is out (sic) understanding that since the Hospital is a charitable non-profit organization and operates as such under the laws of the District of Columbia and the Internal Revenue Act, it should be exempt from the provisions of the District of Columbia Unemployment Compensation Act. Accordingly, it is hereby requested that the Hospital be exempted from said Act. We will, of course, furnish any information and documents that your office may require in order to effect the exemption**."

Subsequently, on March 21, 1967, the appellee determined from the information and data submitted that the Hospital was not organized and operated exclusively for charitable purposes under the provision of Title 46, Section 301 (b)(5) (G) of the D.C. Code, as amended. The appellant was notified accordingly and was advised to file reports and pay contributions thereon for all periods commencing with April 1, 1962. (JA 47-50)

Thereafter, several claimants who were former employees of appellant filed unemployment compensation claims. The claims were honored and paid by virtue of appellee's ruling that the Hospital was an employer covered by the Act. Timely appeals by appellant, were filed within the administrative appeal framework of appellee and the prior determinations were affirmed. (JA 51-54)

Appellant thereupon filed its Complaint for Declaratory Judgment and for review of the administrative decisions (JA 1) and the Court below denied appellant's motion for Summary Judgment and granted appellee's cross-motion for Summary Judgment. (JA 72) This appeal followed on February 29, 1968. (JA 73)

STATUTE INVOLVED

District of Columbia Code, 1967 Edition:

Section 46-301 (b)(5)(G)

"(5) The term 'employment' shall not include--

(G) service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, or charitable purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;"

The above provision prior to its amendment on March 31, 1962, read as follows:

"(G) service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;"

SUMMARY OF ARGUMENT

I. Appellant Is Not Organized And Operated Exclusively For Charitable Purposes Within The Meaning Of Title 46, Section 301 (b) (5)(G) Of The D.C. Code.

A. The appellant's Certificate of Incorporation and its By-Laws attest to the fact that it is organized and operated exclusively for charitable, health, medical, scientific and educational purposes.

B. The full legislative history of the Amendment to the District of Columbia Unemployment Compensation Act was not printed, however, certain reports do show that the conferees of the House and Senate extended coverage and protection of the Act to employees of scientific, educational, literary non-profits, and humane organizations. Pertinent information regarding the intent of Congress will be shown by reports preceding remedial legislation.

II. The Administrative Decisions Of Appellee Should Be Affirmed Since the Intent Of Congress Is Clear And Unambiguous

A. The determinations qualifying former employees of appellant for unemployment compensation were in accordance with the mandate of Congress in legislating for the District of Columbia.

ARGUMENT

I

Appellant Is Not Organized And Operated
Exclusively For Charitable Purposes Within
The Meaning Of Title 46, Section 301 (b)
(5)(G) of the D.C. Code.

A. The sole question to be decided is the narrow one, was the appellee in error when it ruled that the appellant was not an exclusively charitable organization within the meaning of Title 46, Section 301 (b)(5)(G) of the D.C. Code.

Title 46, Section 301 (b)(5)(G) of the D.C. Code was amended April 1, 1962 by striking the words, scientific, literary, or educational, so that it now reads as follows:

"(G) service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, or charitable purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;"

The instant case hinges upon the construction given to the word charitable. In order to give any meaning to the action of Congress in striking the words scientific, literary or educational, it is necessary to give a narrow construction to the word charity or its action would have been nugatory and of no meaning. Under a liberal definition, scientific, literary or educational organizations could be reclassified as charitable and thus congressional action would be thwarted. Even the most liberal construction does not mean that statutory words and phrases are to be given

unusual or tortured meanings unjustified by legislative intent or that expressed limitations on such exemptions are to be ignored.

B. It is interesting to note that Congress, recognizing the plight of the non-profit institutions, following the passage of Public Law 424, found it necessary to pass remedial legislation to ease the financial burden in connection with the rate of contribution to be paid into the unemployment fund. Relief was afforded by reducing the 3 year rating requirement to one year, with the passage of Public Law 705-87. Senate Report No. 2054, 87th Congress, Second Session, entitled "Amending the District of Columbia Unemployment Compensation Act, as Amended", Mr. Bible (for Mr. Morse) submitted the following report, in part,

"Although Public Law 87-424 brought some nonprofit organizations under the provisions of the District of Columbia Unemployment Act, certain other employers, organized and operated exclusively for the relief of poverty and the advancement of religion, retained their exemption as did employers, organized and operated for other purposes beneficial to the community, but not of a scientific, educational, or literary nature. (The American Red Cross is an example of the type organization exempted under this latter category.) However, the exemption of all employers operated in whole or part for the advancement of education or for other purposes beneficial to the community and in whole or part of a scientific or literary nature, was terminated.

Under the existing District of Columbia Compensation Act, the nonprofit corporations who were brought under the coverage of the act as of April 1, 1962, would not

be eligible to be considered for a reduced contribution tax rate until the calendar year 1967.

Some of the nonprofit agencies have, and others probably will, accelerate their eligibility to be considered for a reduced rate for the calendar year 1966 by electing coverage beginning January 1, 1962.

This pending bill provides that the nonprofit organizations in question shall be eligible to be considered for a reduced rate for the calendar year 1965, and if they elect coverage beginning January 1, 1962, permits them to be considered for a reduced rate beginning with the second half of the calendar year 1963.

Inasmuch as many of the organizations involved perform services to the general public and any costs must be passed on to individuals using their services, the committee believes that this bill will assist the institutions involved in holding down their costs to the public using their services. At the same time, this bill does not alter the intention of the committee last year when it unanimously agreed to extend the protection of the District of Columbia Unemployment Compensation Act to employees of certain nonprofit, educational, literary, and scientific institutions. The committee feels that it is sound public policy to extend unemployment compensation insurance coverage to as many groups as possible. On the other hand, it does not wish to place such a heavy financial burden on the cost of operating schools, hospitals, and other nonprofit institutions in the District of Columbia that it will result in increased fees for students and patients in the case of schools and hospitals."

Likewise, the House of Representatives Report No. 2358, 87th Congress, Second Session, entitled "District of Columbia Unemployment Compensation Act"; Mr. McMillan, submitted the

following report, in part,

"The purpose of the bill is to reduce the time required for a determination of the experience rating employed in establishing the rate of contribution to be paid by certain non-profit institutions in the District of Columbia, organized wholly or in part for educational, scientific, or literary purposes, and recently covered into the District of Columbia Unemployment Compensation Act (49 Stat. 946, D.C. Code sec. 46-301). In effect, the accounts of the employers in question would be subject to being charged with benefit payments throughout a 12 consecutive-calendar-month period only, rather than for a 36-consecutive-calendar-month period, as is required for other employers in Washington."

"The act of March 30, 1962 (Public Law 87-424) amended District of Columbia Law to bring under the coverage the approximately 20,000 employees of educational, scientific, and literary association theretofore exempted. In the case of the several large and important institutions of learning located in Washington, and in the case of its hospitals, the requirement of existing law, that new employers must pay into the unemployment trust fund at the maximum rate for the first 3 years, works a very serious hardship upon the management of these worthy nonprofit institutions. As employers, they would not be eligible for consideration of rate modification until 1966 at the earliest, and in some instances as late as 1967. Payment by such employers at the higher rate for this length of time means a substantial increase in their operating costs, which may require, in the case of colleges and universities, increases in their tuition fees and other charges to students; and in the case of hospitals, increases in the rates charged patients."

The intent of Congress is in clear focus, exemption from coverage was to be afforded to those employers organized and operated exclusively for the relief of poverty (charitable)

and the advancement of religion, also, purposes beneficial to the community if it is not operated in whole or in part of a scientific, educational or literary nature.

II.

This honorable Court many years ago directed the appellee to strictly construe exemptions under Title 46 of the D.C.Code. This Court said in the National Rifle Association v. Young, 77 U.S. App. D.C. 290, 134 F. 2d 524, at page 291:

"Compulsory unemployment contributions are taxes. Exemptions from taxation in general, and from this sort of taxation, in particular, are strictly construed."

The Supreme Court of the United States laid down a similar ground rule in claims for exemptions under a U.S. Code Provision somewhat similar to the one in question in the case of Better Business Bureau of Washington, D.C., Inc. v. U. S. 326 U. S. 279, 90 L.E. 67 (1945), 66 S. Ct. 112. In that case the court said at page 283:

"In this instance, in order to fall within the claimed exemption, an organization must be devoted to educational purposes exclusively. This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

The U. S. Court of Appeals for the 9th Circuit in the case of United States of America v. LaSociete Francaise de Bienfaisance Mutuelle, 152 F. (2nd) 243, said at page 245:

"So in the instant case, in order for the Society to fall within the claimed exemption it must be devoted to charitable purposes exclusively and if we find in its operations a single non-charitable purpose substantial in nature, though it may have numerous "truly" and important charitable purpose, it cannot be granted the exemption sought. (Emphasis added)

No member of the Society in receiving the more adequate treatment at a lower cost would consider himself an object of charity but rather that he was reaping the benefit of a wise decision in electing to become a member of an organization which, through its well managed business activities, had made the added results available to him.***"

It is true that the charging of fees does not defeat a claim for exemption as a charitable organization. But the rule in such cases is clearly stated in Hassett vs. Associated Hospital Service Corporation, Inc., 125 F. (2d) 611 at page 614:

"While the charging of fees does not necessarily render an institution non-charitable, Reinstatement of Trusts 376 (c), still the tax payer exacts a fee as a prerequisite to the receipt of benefits in every case. This is not true of the ordinary charitable organization. Many charitable educational institutions charge fees but they do not require payment in every case and ordinary the fee bears no precise relation to the cost of the benefits conferred".

After reviewing the above cases, it is apparent that if the appellant can not show that it is operated exclusively for charitable purposes, its claim for exemption must fail. In the event it does establish charitable purposes, it must be ready to show that they are its sole purposes and that it does

not have any substantial educational, scientific or other purposes. The general rule of statutory construction that the burden of proving justification or exemption under a special exception to the prohibitions of a statute generally rests on one who claims its benefits, requires that appellant undertake this proof. (Citation omitted).

This honorable Court has indicated that in legislation of this type great weight should be placed upon the regulations and interpretations of the government agency administering the program. That proposition was announced in the case of Better Business Bureau of Washington, D.C., Inc. v. U. S., 79 App. D.C. 380, 148 F 2d 14, at page 381:

"And finally we are supported in our conclusion by the interpretation put upon the Social Security Act exemption by the Treasury in its regulations made pursuant to the terms of that Act. The Treasury defines an exempt educational organization as one designed primarily for the improvement or development of the capabilities of the individual.***"

and again at page 182:

"*** In the absence of controlling authority we think this court should follow the Treasury interpretation of this Act. That interpretation is entitled to great weight and should not be set aside except for compelling reasons."

In case of doubt, an exemption provision in a general tax law is to be construed strictly and to be resolved in favor of the taxing power.

Moreover, -- the right of a corporation to an exemption is to be determined by the power given it in its charter.

The character of the corporation must be judged by its Articles of Incorporation, Constitution and By-Laws, rather than by the declarations of its officers, or the method by which it conducts or has conducted its business.

The fact that a corporation is labeled a charitable organization is not controlling, see Hassett v. Associated Hospital Service Corporation of Mass., 125 F. 2d 611 Cert. denied U.S. 672, supra.

It is further submitted that the association of the term "charitable" with the terms religious, scientific, literary or educational, makes it appear obvious that the Congressional intent was to use the word in a limited sense. (Citation omitted).

It is not denied that the internal Revenue Service carries the appellant organization in a charitable status but it is most interesting that the appellant was granted the exemption by the Internal Revenue Service under the provision of Section 501(c)(3) of the Internal Revenue Code which reads substantially the same as Section 1(b)(5)(G) of the Act prior to its amendment.

Appellant can not explain away the action of Congress by describing his organization as charitable and benevolent. If Congress had intended this interpretation of the statute, it would not have amended Title 46, Section 301(b)(5)(G) of the D.C. Code. By amending this section, Congress indicated in the strictest terms, it intended to remove all organiza-

tions except charitable and religious. A more likely explanation is that Congress wanted to make it clear that only those organizations should be exempt.

An examination of the appellant's cases disclose that none are strictly in point. All involve provisions of law somewhat different from the one involved here. Usually it is sufficient, under those cases cited by appellant, for the organization to be charitable, educational, or both and generally the provisions did not require the organization to be exclusively charitable.

The appellant's case can be distinguished from the Girl Scout Case by the aspect of its activities. The Certificates of Incorporation are in no wise similar.

A. In the context of the foregoing it was incumbent upon the appellee to honor and award unemployment compensation to those former employees of appellant.

CONCLUSION

It is respectfully submitted that a strict construction must be given to the definition of charitable or the action of Congress will be nullified. Under the rulings of the various Circuit Courts of Appeals including this honorable Court, and of the Supreme Court, it would appear that if the appellant is organized and operated wholly or in part for educational, scientific or other purposes of a substantial nature, it can not prevail in its claim for exemption. For

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the foregoing reasons, the judgment below should be affirmed.

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